

# EPC COMMISSION MINUTES & AGENDA

MONTH August

YEAR 1993

ADM-1-1-1 EPC Meeting  
August 1993  
Dorothy's initials JH

**MINUTES  
OF THE  
ENVIRONMENTAL PROTECTION COMMISSION  
MEETING**

**AUGUST 16, 1993**

**WALLACE STATE OFFICE BUILDING  
DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Hartsuck at 10:00 a.m. on Monday, August 16, 1993, in the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

Verlon Britt  
William Ehm  
Richard Hartsuck, Chairperson  
Rozanne King  
Charlotte Mohr  
Nancylee Siebenmann, Secretary  
Clark Yeager, Vice-Chairperson

### MEMBERS ABSENT

Margaret Prah  
Gary Priebe

### ADOPTION OF AGENDA

The following adjustments were made to the agenda:

*Motion was made by Nancylee Siebenmann to approve the agenda as presented. Seconded by William Ehm. Motion carried unanimously.*

APPROVED AS PRESENTED

### APPROVAL OF MINUTES

*Motion was made by William Ehm to approve the minutes of July 19, 1993, as presented. Seconded by Rozanne King. Motion carried unanimously.*

APPROVED AS PRESENTED

### DIRECTOR'S REPORT

Larry Wilson, Director, stated that Teresa Hay will show an 18 minute video on the WRAP program in conjunction with that item. He informed the Commission that the Regional Collection Center Grant Program will come before them in October. Applications were reviewed by staff from EPD and WMA divisions and they have selected the following sites: Cerro Gordo,

Cedar, Clinton, and Jackson counties, Des Moines Metro Solid Waste Agency, and the Nishna Sanitary Services.

### **WASTE REDUCTION ASSISTANCE PROGRAM**

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

Since 1990, the Waste Reduction Assistance Program (WRAP) has provided non-regulatory technical assistance in pollution prevention to over 70 Iowa companies with 100 or more employees and those companies that generate large quantities of waste (as defined in federal law). Started with a \$300,000, three-year grant from the US Environmental Protection Agency, WRAP was a response to Iowa's need to address adequate capacity for hazardous waste treatment and disposal, as well as our interest in promoting the concepts of pollution prevention. The primary resources of WRAP are a team of 12 senior industry professionals and two full-time WMAD staff members who have over 500 combined years of industrial, scientific and pollution prevention experience. Since July 1, 1993, WRAP has been funded with a portion of the solid waste tonnage fees.

The centerpiece of the WRAP program is the on-site waste opportunity assessment. This process helps companies identify new ideas and confirm existing ones for reducing waste and the costs associated with waste management. All wastes are considered to the extent that information and time are available. Energy and efficiency are also studied for opportunities. The WRAP on-site team first meets with a company team to gain background and perspective, then performs a detailed review of the facilities waste streams, operations and associated information. A verbal de-briefing is given to the company team before leaving to establish the initial ideas for reducing waste and costs and to verify that all are realistic.

A written report is provided a few weeks later. In addition to providing a more detailed list of pollution prevention options for each client company, the written report verifies prior progress and provides preliminary cost/benefit estimates where possible.

The second, and probably most important, component of the WRAP program is the on-site workshop that follows the opportunity assessment. WRAP conducts a pollution prevention workshop that presents industry proven ideas for establishing a self-sustaining pollution prevention program. The half day session stresses team concepts and facility planning for pollution prevention as well as the importance of incorporating maximum employee involvement. Examples are presented from successful programs around Iowa and the U.S.

The third element of WRAP's assistance is a clearinghouse for providing information about proven and emerging pollution prevention technologies to WRAP clients. The technologies of waste reduction, toxics use reduction and other areas associated with pollution prevention, such as energy efficiency, are evolving rapidly. By networking with other state programs, federal agencies and the contacts of the senior team members, WRAP can assist clients in both

identifying new ideas for pollution prevention and determining which ones may be of benefit in specific situations.

A copy of a recent article regarding WRAP from the *Iowa Conservationist* and a set of case studies detailing some of the savings attributable to WRAP are attached for your information.

Ms. Hay presented a history of the program and distributed a newsletter about the program. She provided details of the program and related workshops. She noted that the WRAP team is comprised of 12 retired industry professionals who are a very diverse group.

Brief discussion followed.

Rozanne King asked if the department advertised to make industry aware of the program in the beginning.

Ms. Hay replied that the Program Manager went door-to-door to convince industry that this is a very good program. She added that staff continue to market the program through phone calls and personal contacts.

Ms. Hay showed a videotape about the WRAP program

INFORMATIONAL ONLY

## PUBLIC PARTICIPATION

### Cameron Moore

Cameron Moore, Executive Director of Muscatine Development Corporation, presented the following written statement:

#### REMARKS TO THE IOWA ENVIRONMENTAL PROTECTION COMMISSION BY

CAMERON MOORE  
EXECUTIVE DIRECTOR  
MUSCATINE DEVELOPMENT CORPORATION

My name is Cameron Moore. It is my pleasure to serve the Muscatine community as Executive Director of the Muscatine Development Corporation, a private not for profit organization whose purpose is to promote economic and community development. I would also like to introduce Mayor Pro Tem Ralph Freese; Paul Wedel, Director of Operations at Muscatine Power & Water, our municipal utility and Bill Trent, Vice President & Associate General Counsel for Grain Processing Corporation. Although they were unable to have a representative in attendance today my remarks also convey the concerns of the Monsanto facility in Muscatine.

We have all come to Des Moines today to express our community's concerns regarding proposed revisions in the State Implementation Plan (SIP) and the Administrative Orders issued to Muscatine Power & Water, Grain Processing Corporation and Monsanto in connection with these proposed revisions. The proposed revisions would impose a "bubble" over a substantial portion of our community. The intent of this "bubble" being to control certain types of air emissions that result from burning fossil fuels. I believe I speak for the entire community when I say that we support efforts to maintain and enhance a clean and healthy environment. In fact the policies and business recruitment guidelines of the Muscatine Development Corporation, which receives the support and active participation of the companies represented here today, contain the following statements:

*MDC will place emphasis on attracting companies that are good corporate citizens and concerned with preserving the environment.*

*Companies that will create an adverse impact on the environment, especially water and air, will not be recruited.*

However the current SIP revision proposal might bring to a sudden halt an aggressive community and economic development pattern being implemented in Muscatine. Among the community improvements planned, completed or underway in Muscatine consider these:

\*YMCA \$9 million

\*Park/Baseball/Softball complex renovation - \$3.5 million

\*State of the art soccer complex - \$4 million

\*Science and Technology Center - \$20 million

\*3 Year Muscatine Advantage Economic Development Initiative - over 300 new jobs and \$35 million in expanded tax base

The success of these projects and the prosperity of our community are a result of the strong industrial base that has been built in Muscatine. Indeed many of these projects are driven substantially by private sector corporate contributions. The imposition of the proposed SIP revisions would burden the affected companies with millions of dollars in new costs. This would include not only millions in capital costs but also millions in ongoing operational costs. These additional costs can only make it more difficult for our companies to compete in the global market place, to provide quality job opportunities in the future and continue their role as good corporate citizens supporting community projects in the Muscatine area.

We are also concerned that this "bubble" will make it difficult, if not impossible, to continue building our economic base. Certainly prospective new industries will be concerned about their ability to manufacture competitively, or at all, given such restrictions. Another critical element in

the continued growth of our industrial base is the impact that the "bubble" will have on our public utility. Muscatine Power & Water is the largest municipally owned utility in Iowa. The citizens of Muscatine, individual and business, enjoy some of the lowest electric and water rates in the state. The costs associated with the SIP revisions would likely result in rate increases. In addition MP & W would be limited in their ability to increase generating capacity through the construction of new power plants in the future. Our low rates and ability to meet relatively large demands for water and electric services is currently an advantage when competing against other communities for new manufacturing facilities.

There have been only five monitored exceedences of the maximum allowable sulfur dioxide levels since 1989. All five of these exceedences have been at the same monitor, located in Musser Park, while two other monitors in Muscatine have never recorded an exceedence. One of these monitors has been in place since 1982 and the other since December 1991. The current proposed SIP revisions and Administrative Orders seem to be much more severe than necessary to effectively address the concerns raised by these exceedences. There are many factors that seem to support a more cooperative, less drastic, approach to addressing these concerns.

- 1) The Iowa Department of Natural Resources made this proposal without formal discussions with the community or the industries involved. All of the organizations involved in this issue have a history of cooperating with the efforts of the IDNR to protect our environment. However in this instance we have not yet been afforded the opportunity to work with IDNR to seek a solution which not only ensures a clean environment but is also sensitive to the economic realities which these companies and our community must face. We want to work with IDNR to find a solution.
- 2) Muscatine Power & Water brought its newest generating unit, which is the only fully scrubbed unit in the state, on line in 1983. Subsequent to this action two older units have been retired. Since September of 1992 there have been no monitored exceedences. Has the effect of this change been adequately considered before the proposed SIP revisions were developed?
- 3) To our knowledge none of the affected industries have been found to have violated their air permits. This is an indication of the environmental awareness of these industries.
- 4) The modeling data indicates that the modeled averages at the Musser Park monitor are well below the maximum allowable. Has this modeled data been given adequate consideration?
- 5) Iowa has made great strides in economic development over the last several years. This economic progress has been helped by the fact that the Iowa DNR has developed a reputation for being compliance oriented rather than enforcement oriented. Companies have come to expect an approach that seeks to assist them in achieving compliance with environmental regulations rather than simply enforcing them. In the eyes of companies considering Iowa as a place to establish operations, as well as those companies already operating in the state, this is a major consideration when making decisions about their

future. We hope that the IDNR will be willing to work with us to ensure that there are no further exceedences that trigger future SIP revisions.

What is the practical effect of the "bubble" approach? It calls for a 29% reduction from actual emission levels - not from maximum permissible emission levels. In the case of Muscatine Power & Water alone this would result in a 70% reduction. The cost of achieving a 70% reduction at a facility that is already burning low sulfur coal and operates the only fully scrubbed generating facility in the state is staggering. At GPC preliminary estimates have put the increase in annual operating costs alone at \$3 to \$4 million.

Simply stated we know that there have been monitored exceedences. We believe that the proposed SIP revisions go too far, too fast in attempting to remedy this problem, place an undue hardship on the companies involved and ultimately will have a negative economic impact on our community. We also believe that there are other solutions that haven't been fully explored and factors that have not received due consideration. It is possible that the same goal can be achieved with less drastic measures. We stand willing to work with the IDNR to seek and implement a reasonable solution.

Charlotte Mohr asked if there are data on the monitored exceedences.

Bill Trent, Vice President, Grain Processing Corporation, stated that the monitor at Musser Park was put into operation in December 1989. He further explained that there were three monitored violations recorded during the summer of 1991, two of these occurred in June and one in July. There were two additional monitored exceedences in September 1992.

Nancylee Siebenmann asked Mr. Trent if they have any alternatives in mind.

Mr. Trent stated that there are no specific alternatives but they would like to see a program with a staged approach to reductions in SO<sub>2</sub> over a period of time.

William Ehm asked how this ties in with the rules passed by the Commission last month adding that he thought any new industries would have to be offset.

Mr. Trent stated that the department has issued the Notice of Intended Action for the SIP Revision and has also issued Administrative Orders to Muscatine Power & Water, Grain Processing Corporation, and Monsanto Company to reduce their SO<sub>2</sub> emissions by 29%. He added that the two issues are tied together in the sense that the SIP revision will put in place the new limits after the required reductions are made through the Administrative Orders. He questioned whether both need to be done. Mr. Trent noted that all three facilities have requested an informal settlement of the Administrative Order. He related that they hope no final action is taken on the SIP revision until they have had a chance to try to work it through the normal appeals/informal settlement route.

Clark Yeager asked several questions about details of the Administrative Order.



Director Wilson stated that he does not think the Commission should discuss the Administrative Order at length as it might come before the Commission on an appeal.

In response to Mr. Moore's statement, Mr. Stokes stated that when the federal government saw what was happening in Muscatine they directed the state to do something about it. He noted that because a facility is operating in the confines of its permit limitations, it does not mean there are not violations of the ambient air quality standards. Mr. Stokes related that the state's regulatory program must see that these industries are brought into compliance, and once they are in compliance that it never happens again. He stated that the rulemaking issue is a separate issue. Also, if this issue is not addressed, EPA will continue to take steps to designate Muscatine as non-attainment with the ambient air quality standards for sulphur dioxide. Mr. Stokes related that if the state does not take action and violations of national standards occur, EPA can impose sanctions to take away federal road money, wastewater grant funds, and other federal assistance, as well as take away authority for the state program. Mr. Stokes clarified that from the minute staff learned the federal government was putting a SIP call on, the department has communicated with the appropriate officials from all of the regulated industries. Additionally, staff discussed with the industries what was going to be in the Administrative Orders before they were issued.

Richard Hartsuck asked if EPA notified the department that Muscatine was a non-attainment area.

Mr. Stokes stated that the department was notified and EPA is withholding a quarter-million dollars of grant money because the state is tardy in getting the SIP revision submitted. He related that the department delayed submitting the SIP revision for two months while working with one of the affected industries on the proper modeling approach.

Discussion followed regarding criteria used to determine the non-attainment designation; the possibility of the state still receiving the quarter-million dollars; and modeling and monitoring areas in the state.

Mr. Trent stated that he did not intend to convey that DNR did not work with them on this issue over the years, but that the affected industries did not get a chance to discuss the Administrative Order before it was issued. He related that staff has been very good with working with them in the past.

#### **Jane McAllister**

Jane McAllister, Ahlers Law Firm, addressed the Commission expressing concern with the UST Ability to Pay rules. She stated that she has two parties who cannot afford to do investigation and cleanup and she feels that when dealing with different individuals and different financial matters the same rules do not apply. She noted that she provided written comment on the rules. Ms. McAllister stated that the issue she takes is that rules are policy the department will follow but they must be specific enough to provide guidance to the regulated community as to how decisions are going to be made by the department. She explained that the department uses ABEL

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to determine if a company is able to pay, and she feels ABEL is a users manual which does not tell how the decision is made. She noted that she is adverse to a computer making a decision. Ms. McAllister added that someone needs to explain, in having five ratios, how it is decided that one ratio has precedence over another, or how the actual decision on ability-to-pay is made. She related that she does not think ABEL is reliable and it does not tell the regulated community how the decisions are going to be made.

**CONTRACT APPROVAL - MUNICIPAL WATER POLLUTION PREVENTION PLAN**

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The department recommends commission approval of a contract with Iowa State University. The contract amount is \$50,000 and Iowa State University will develop an assessment program that cities and the state can use to evaluate the relative "health" of wastewater treatment plants before permit violations occur. The contract period will run from September 1993 to January 1995. The goal of this project is to provide means to identify operational and NPDES compliance problems early so that planning for and implementation of improvements are done prior to plants violating their NPDES permit conditions.

Funds for this project are being provided by a \$50,000 grant already received from the EPA (July 6, 1993). ISU will work closely with the department during the development of the project. EPA is promoting Municipal Water Pollution Prevention Plans (MWPP) as a means to prevent adverse water quality impacts from wastewater treatment facilities. Because federal funds are being used for this contract, EPA approval of the contract will be necessary. It has been submitted for EPA review.

Nancylee Siebenmann asked if this program is being used anywhere else or if it is unique to Iowa.

Mr. Stokes stated that he is not aware of any other state that has a self computerized program. He added that Wisconsin has a program but this is a step beyond some of the early stage programs that have been done in other states.

Brief discussion followed.

*Motion was made by Rozanne King to approve a contract with Iowa State University for a Municipal Water Pollution Prevention Program, at a cost of \$50,000. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

APPROVED AS PRESENTED

**MONTHLY REPORTS**

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Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

## IOWA DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION RULEMAKING STATUS REPORT August 1, 1993

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 22 - Air Construction Permit Exemptions	6/21/93	7/07/93	8/02/93	*8/23/93	*9/20/93	*9/20/93	*10/13/93	*11/17/93
2. Ch. 22 - Sulfur Dioxide Emission Offsets-Muscataine	7/19/93	8/18/93	*9/ /93	*9/08/93	*10/18/93	*10/18/93	*11/30/93	*12/15/93
3. Ch. 22 - Air Emission Source Operating Permits	*9/20/93	*10/13/93	*11/ /93	*11/ /93	*12/20/93	*12/20/93	*1/19/94	*2/23/94
4. Ch. 23 - Emission Standards for Contaminants (Training Fires)	8/18/93	*9/15/93	*10/ /93	*10/ /93	*11/15/93	*11/15/93	*12/08/93	*1/12/94
5. Ch. 61 - WQ Standards-Antidegradation Policy	7/19/93	8/18/93	*9/ /93	*9/16/93 *9/17/93 *9/20/93	*10/18/93	*10/18/93	*11/30/93	*12/15/93
6. Ch. 42 - Effluent and Pretreatment Standards	E M E R G E N C Y				8/16/93	*8/16/93	*9/20/93	*10/20/93
7. Ch. 72 - Flood Plain Development-Protected Streams	7/19/93	8/18/93	*9/ /93	*9/08/93 *9/09/93 *9/13/93 *9/15/93	*10/18/93	*10/18/93	*11/30/93	*12/15/93
8. Ch. 100, 102 - Special Waste Authorizations	3/15/93	4/14/93	5/11/93	5/04/93	*9/20/93	*9/20/93	*10/13/93	*11/17/93
10. Ch. 100, 103 and 111 - Financial Assurance Requirements for Municipal Solid Waste Landfills	*9/20/93	*10/13/93	*11/ /93	*11/ /93	*12/20/93	*12/20/93	*1/19/94	*2/23/94
11. Ch. 101 - General Requirements Relating to SW Disposal	7/19/93	8/18/93	*9/ /93	*9/14/93	*10/18/93	*10/18/93	*11/30/93	*12/15/93
12. Ch. 131 - Notification of Hazardous Condition	*9/20/93	*10/13/93	*11/ /93	*11/ /93	*12/20/93	*12/20/93	*1/19/94	*2/23/94
13. Ch. 135 - UST, Financial Responsibility	2/15/93	3/17/93	4/05/93	4/06/93	8/16/93	*8/16/93	*9/15/93	*10/20/93
14. Ch. 156 - Financial Responsibility for USTs	5/17/93	6/09/93	7/08/93	7/06/93	8/16/93	*8/16/93	*9/15/93	*10/20/93
15. Ch. 211 - Grants for Regional Collection Centers	7/19/93	8/18/93	*9/ /93	*9/16/93	*10/18/93	*10/18/93	*11/30/93	*12/15/93

MONTHLY VARIANCE REPORT						
Month: July, 1993						
No.	Facility	Program	Engineer	Subject	Decision	Date
1.	Lake Ahquabi Dam - Warren County	Flood Plain	Butts Engineering	Freeboard	Approved	07/26/93
2.	City of Sioux City Sanitary Landfill	Solid Waste	Five States Engineering	Leachate Collection System Piping	Approved	07/09/93

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## TOPIC: Report of Hazardous Conditions

During the period July 1, 1993 through July 31, 1993, reports of 100 hazardous conditions were forwarded to the central office. Two incidents are highlighted below. A general summary and count by field office is attached. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Material, Amount, Cause, Location & Impact	Responsible Party	Response
07/11/93 Clayton	Heavy rain cause mud to cover railroad tracks resulting in the derailment of an engine and three cars. 2000 gallons of diesel were spilled near the Mississippi River at Guttenberg. The fuel reached the river.	Canadian Pacific RR	The RP was advised to contain the diesel with booms if possible. Contaminated soil was to be excavated and properly disposed. The response was limited due to heavy rain and flooding.
07/14/93 Polk	Two sides of a dike surrounding a tank farm were breached due to flooding. Approximately 5100 gallons of solvents were released to the Des Moines River when aboveground tanks were damaged.	Iowa Paint Mfg.	The tanks were plugged and the remaining solvents were pumped out. The response was limited due to flooding. An environmental assessment of the site is required.

Month	Substance					Mode				
	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
October	83(87)	54(52)	8(4)	21(31)	51(42)	0(2)	25(24)	2(2)	0(0)	5(17)
November	84(83)	46(56)	7(3)	21(22)	38(44)	1(1)	26(22)	0(0)	0(0)	9(13)
December	67(81)	41(47)	9(7)	17(27)	37(40)	2(2)	28(28)	0(2)	0(1)	9(8)
January	61(64)	47(40)	0(6)	14(18)	32(33)	1(0)	21(22)	1(1)	0(1)	6(8)
February	39(61)	22(38)	2(6)	8(17)	22(36)	0(0)	13(19)	3(2)	0(0)	1(4)
March	71(79)	46(40)	4(15)	21(24)	45(50)	2(0)	21(14)	1(1)	1(0)	1(14)
April	90(107)	58(50)	12(35)	20(22)	55(47)	1(3)	29(39)	2(2)	0(0)	3(16)
May	120(141)	41(41)	52(64)	27(36)	68(75)	4(0)	38(49)	1(1)	2(3)	7(13)
June	103(105)	56(58)	24(25)	23(22)	57(51)	3(2)	30(28)	2(2)	8(3)	3(19)
July	100(85)	61(47)	14(7)	25(31)	64(47)	2(0)	28(18)	1(0)	0(0)	5(20)
August										
September										

Total Number of Incidents Per Field Office This Period:

(numbers in parentheses for the same period in fiscal year '92)

1 2 3 4 5 6  
7 9 10 14 31 29

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## REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of July 1, 1993 through July 31, 1993, the following number of releases from underground storage tanks were identified.

20 (26)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1992.

### Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Monasato Company, Muscatine (6)	Air Quality	Other	Order	7/07/93
Muscatine Power and Water, Muscatine (6)	Air Quality	Other	Order	7/07/93
Grain Processing Corporation, Muscatine (6)	Air Quality	Other	Order	7/07/93
Anamosa, City of (1)	Wastewater	Effluent Limits	Amended Order	7/06/93
Land O' Lakes, Inc., Hamilton County (2)	Wastewater	Prohibited Discharge	Amended Order	7/06/93

### Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Carson Grain & Implement (Coggon)	UT	1,000	8-03-92
Ron Jungling d/b/a Jungling Texaco (Wellsburg)	UT	550	11-18-92
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Charles Hennaman (Mitchel Co.)	SW	450	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Mike's Prairie Home (Ollie)	WS	500	5-30-93
McGill Asbestos Abatement Co., Inc. (Council Bluffs)	AQ	500	6-13-93
Anderson Excavating & Wrecking Co. (Council Bluffs)	AQ	500	6-28-93
Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	300	7-06-93
Robert Bodwell (Winterset)	UT	300	7-07-93
Clear Lake Stock Farms, Inc. (Osceola Co.)	SW	1,000	7-07-93
Franklin Raymond (Pacific Junction)	UT	300	7-07-93
*63-80 Cafe (Moore Oil Co.) (Malcom)	WS	700	7-20-93
*Delano's Lounge (Washington)	WS	450	8-01-93
Eddie Hemmer (Jones County)	AQ/SW	600	8-01-93
South Dallas County Landfill Assoc. (Dallas Co.)	SW	1,000	8-28-93
Cliff Place (Waverly)	WS	300	9-02-93
Foodliner, Inc. (Eddyville)	WS	1,000	9-02-93
Pull Moon Saloon (Jesup)	WS	300	9-02-93
Dubuque Regional Airport (Dubuque)	WS	300	9-02-93
Trust Trucking Corp.; Jim and Brenda Huyser (Levilia)	UT	840	9-02-93
Orle Stewart, et.al. (Webster Co.)	SW	1,000	-----
Gary Fuller (Hardin Co.)	WS	300	-----

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Amoco Oil Company (Des Moines)	UT	1,300	8-15-90
Gerald G. Fregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,300	9-06-90
Robert and Sally Shelley (Guthrie Center)	SW	1,300	3-04-91
Fred Varner (Worth Co.)	SW	950	4-11-91

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Honey Creek Camping Resort (Crescent)	WS	245	6-13-91
F.R. Thomas/F.R. Thomas, Jr. d/b/a Clair View Acres Store (Delhi)	WS	1,000	8-04-91
*M & W Mobile Home Park (Muscatine)	WS	200	8-21-91
Vern Starling (Boone Co.)	SW	690	9-15-91
Lloyd Dunton (Iowa Co.)	SW	300	11-07-91
Vernus Wunschel d/b/a Wunschel Oil Co. (Ida Grove)	UT	300	1-12-92
Bernard Sadler/Ger-Mar Farms (Allamakee Co.)	SW	500	3-28-92
Kenneth Bode (Mills Co.)	SW	300	4-27-92
*Todd D. Behounek and Paul Behounek (Tama Co.)	SW	100	5-21-92
V.R. Dillingham d/b/a Barb's Service (Everly)	UT	600	5-21-92
Leonard Page d/b/a Kent Store (Kent)	UT	300	5-25-92
Tandem Oak Park Associates (Ft. Dodge)	WS	405	6-03-92
Dick White (Washington County)	AQ	250	8-15-92
Central Paving Corporation (Iowaola)	UT	300	8-20-92
Marion Stark (Kellerton)	UT	300	8-26-92
Midway Water & Lighting (Marion)	WS	860	10-07-92
Robert Plendl d/b/a Plendl Bros. Trucking (Kingsley)	UT	300	10-15-92
Shirley Pecoy d/b/a Joe's Place (Sexton)	UT	300	10-19-92
Rankin Roofing & Siding Co. (Knoxville)	AQ	500	11-09-92
Cloyd Poland	FP	800	12-07-92
William D. Ames (Woodbury Co.)	SW	1,000	1-20-93
Tony Hoyt d/b/a Lake Wilderness (Lee Co.)	SW	1,000	1-23-93
Don Grall d/b/a Dodger Enterprise (Ft. Dodge)	AQ	10,000	2-16-93
Bernard Gavin Veterinary Clinic (Wellburg)	UT	600	5-02-92
Dennis Doud d/b/a D & D Tire (Moravia)	UT	300	1-24-93
Tim Sharp (Newton)	UT	1,000	1-25-93
Jack Link Truck Line, Inc. (Dyersville)	UT	300	1-25-93
David Young d/b/a Sierp Oil Co. (Casey)	UT	300	2-10-93

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Amoco Oil Co. (Des Moines)	UT	1,000
Iowa City Regency MHP (Iowa City)	WS	1,000
1st Iowa State Bank (Albia)	SW	1,000
Amoco Oil Co. (West Des Moines)	UT	1,000
Sioux City, City of	WS	1,000
Des Moines, City of	HC	1,000
Van Dusen Airport Services (Des Moines)	HC	1,000
Maple Crest Motel and MHP (Mason City)	WS	350
Chicago & North Western Transportation, et.al.	SW	1,000
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
McDowell Dam #1 (Lee Co.)	FP	500
McDowell Dam #2 (Lee Co.)	FP	500
Oskaloosa Food Products Corp. (Oskaloosa)	WS	1,000
Oskaloosa, City of	WS	1,000
Wiota, City of	WS	500
Hickory Hollow Water Co. (Ankeny)	WS	400
Dell Oil Ltd. (Sioux City)	HC	1,000
White Consolidated/Frigidaire Co. (Jefferson)	WS	1,000
Linden, City of	WS	1,000
William H. Viner (Emerson)	UT	600
Farmers Cooperative Elevator (Martelle)	HC	1,000
Humboldt County Sanitary Landfill Commission	SW	1,000
Wayne Transportation, Inc. (Greene)	WS	1,000
Mulgrewe Oil Company (Dubuque)	HC	500
John Staub d/b/a Mr. Convenient (Burlington)	UT	600
Charles Kerr (Sioux)	UT	600
Stringtown Country Cafe (Lenox)	WS	1,000
Lincoln Farm and Home Service (Henderson)	WS	1,000
Chickasaw Co. SLP, et.al. (Chickasaw Co.)	SW	1,000
Richard Newman (Des Moines Co.)	SW	500
Plymouth Cooperative Oil Co. (Hinton)	WS	1,000
LaVerne Rehder (Union)	UT	300
Randy Bonin/Vickie Brannick (Hardin Co.)	SW	500
Ida County Sanitary Landfill (Ida Co.)	SW	1,000
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
Waste Systems Corp./Ronald Roth (Winnebago Co.)	SW	1,000
Decatur, City of	UT	600
South High Point Well Assn. #1 (Iowa City)	WS	600
Case Power and Equipment (Decorah)	WS	500
Cedar Valley Corporation (Waterloo)	AQ	1,000
King's Terrace Mobile Home Court (Ames)	WS	500
ITWC, Inc. (Malcom)	AQ	1,000
Lloyd Decker (Floyd Co.)	SW	1,000
Eldon Krambeck (Scott Co.)	AQ	1,000
Country Mobile Home Court (New Hampton)	WS	845
Albert Rohwer/Chelmer Flynn (Scott Co.)	SW	1,000
Waucoma, City of	WS	250
Tracy Below (Hardin Co.)	WS	1,000
Grand Laboratories, Inc. (Larchwood)	WS	1,000
Frank Hulshizer (Benton Co.)	SW	500
Cargill, Inc. (Eddyville)	SW/WS	1,000
Fausser Oil Company, Inc. (Elgin)	UT	1,000
Land Renu, Inc. (Rockwell City)	SW	1,000
Holnam Inc. (Mason City)	AQ	5,000
Hennings Wood Products, Inc. (Winneshek Co.)	SW	500
Cyclone Steeple Jacks Inc. (Nevada)	AQ	1,000
Newton, City of	SW	1,000
Wells Dairy, Inc. (LeMars)	WS	5,000
LeMars, City of	WS	5,000
Fine Oil Co., John and Diane Fine (Appanoose Co.)	AQ/HC/WS	10,000

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Economy Solar Corp. (Monticello)	AQ	100
Phil McMains (Appanoose Co.)	SW	4,000
Enviro Safe Air, Inc. (Sioux City)	AQ	100
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Daisy H. Gridley Conservatorship, et.al. (Union Co.)	SW	1,000
Casey's General Stores, Inc. (Anamosa)	AQ	1,000
Iowa-Illinois Thermal Insulation, Inc. (Clinton)	AQ	100
R. Excavating, Inc. (Council Bluffs)	AQ	1,000
Technical Asbestos Control, Inc. (Davenport)	AQ	500
Midwest Asbestos, Inc. (Cedar Falls/Tama)	AQ	500
Advanced Technologies Corp. (Cedar Falls)	AQ	1,000
Advanced Technologies Corp. (Cedar Falls)	AQ	500
Technical Asbestos Control, Inc. (Davenport)	AQ	200
Des Moines County Sanitary Landfill (Des Moines Co.)	SW	3,000
Graham Tire Co. of Spencer (Spencer)	UT	1,100
Mal-Ray Mobile Home Park (Ankeny)	WW	500
Thomas L. Burt, et. al. (Butler Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
Blue Spruce Feedlots, Inc. (Pottawattamie Co.)	WW	5,000
Valley Restaurant/Sierp Oil/Mary & Carl Sierp (Villisca)	UT	5,000
Valley Restaurant/Sierp Oil/Robert Radford (Villisca)	UT	2,300

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
*63-80 Cafe (Moore Oil Co.) (Malcom)	WS	100
*Seven Ponds Park (Des Moines County) (Paid in Full)	WS	480
*Deiano's Lounge (Washington)	WS	25
The Zipper (Festina)	WS	300
Country Estates Mobile Home Park (Long Grove)	WS	200
R.D. Loftan, JWM (Osage)	UT	300
TOTAL		1,405

## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS August 1, 1993

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Aft Corner Oil Co. Carroll (4)	Hazardous Condition	Remedial Action	Order	Referred Petition Filed Remediation Plan Rejected	12/16/91 12/16/92 3/30/93
American Meat Protein Corp. Lyons (3)	Wastewater	Pre-treatment	Referred to Attorney General	Referred Petition Filed Motion to Add City Granted Trial Date	10/21/91 4/30/92 12/16/92 1/25/94
Ames, William D. Woodbury County (3)	Solid Waste	Illegal Disposal	Order/Penalty	Referred	2/15/93
Amoco Oil Company Des Moines (5)	Underground Tank	Remedial Action	Referred to Attorney General	Referred Suit Filed Trial Date	8/21/90 10/15/90 9/27/91 10/21/91
Anthon, City of (3)	Wastewater	Discharge Limits	Order	Referred Petition Filed	11/16/92 3/22/93
Behounek, Paul and Todd Tama (5)	Air Quality	Open Burning	Referred to Attorney General	Referred Petition Filed	5/18/92 12/11/92
Birmingham, Kirsteen A. Creston (4)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Petition Filed	6/15/92 12/11/92

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS August 1, 1993

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Boley, Fred & Bole Oil McComb (6)	Hazardous Condition	Remedial Action	Order	Referred Site Investigation Plan Petition Filed Trial Date	2/17/92 9/23/92 12/14/92 8/26/93
Carney, Don and Gertrude Pt. Dodge (2)	Solid Waste	Illegal Dump.	Order/Penalty	Referred Petition Filed	4/15/91 3/25/92
Chicago & Northwestern Transportation Co. Blue Chip Enterprises Hawkeye Land Company Iowa Falls (2)	Hazardous Condition	Remedial Action	Order	Petition for Judicial Review Petition for Judicial Review Petition for Judicial Review Order/Change Venue to Hardin Co. Oral Arguments Order Affirmed Supreme Court Appeals Filed	8/19/91 8/14/91 9/16/91 11/21/91 3/1/93 4/23/93 5/23/93
Chicago & Northwestern Transportation Co. Stanwood (6)	Air Quality	Open Burning	Referred to Attorney General	Referred Petition Filed	5/8/92 4/26/93
Cott Industries, Inc. Des Moines (3)	Hazardous Condition	Remedial Action	Order	Referred Petition for Judicial Review Order Granting Motion to Dismiss Notice of Appeal Affirmed by Supreme Court Petition Filed	4/15/91 4/18/91 7/23/91 8/12/91 10/21/92 4/16/93
Dalano Lounge Washington (6)	Drinking Water	MCL-Bacteria Mnng/Rptng.- Nitrate	Order/Penalty	Referred Petition Filed	1/19/93 4/23/93
Doud, Dennis D & D Tire Company Marion (3)	Underground Tank	Closure Investigation	Order/Penalty	Referred	5/17/93
Dunton, Lloyd Iowa County (6)	Solid Waste	Illegal Dump.	Order/Penalty	Referred Petition Filed Trial Date	12/16/91 8/26/92 12/20/93
Ecology Enterprises, Inc. Hollis D. DeVoe; Michael Murray; Robert Rausch Chickasaw County (1)	Solid Waste	Illegal Dumping	Referred to Attorney General	Referred Petition Filed	6/15/92 3/24/93
Ervin, Don Webster County (2)	Solid Waste	Operation Without Permit	Order/Penalty	Referred Judgment for \$1,000 Enforcement & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 7/13/90 9/28/90 11/27/90 11/30/90
		Permit Violations	Referred to Attorney General	Referred Temporary Injunction Order of Contempt Order Granting Stay Contempt Reversed (Court of Appeals) Application for Further Review Supreme Ct. Reversed Ct of Appeals Order to Serve Sentence Application for Hearing Order Denying Reconsideration of Sentence	9/16/91 9/18/91 12/20/91 12/26/91 9/29/92 10/16/92 2/17/93 3/17/93 3/18/93 3/19/93

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS August 1, 1993

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date	
First Iowa State Bank Albia (2)	Solid Waste	Open Dumping	Order/Penalty	Petition for Judicial Review Ruling on Petition for Judicial Review Appeal to Ia. Supreme Court State Filed Brief Oral Arguments Oral Arguments Ending Petition for Rehearing	4/12/91 3/23/92 3/31/92 8/23/92 5/13/93 6/16/93 6/30/93	
Gavin, Bernard Gavin Veterinary Clinic Wellsburg (2)	Updated	Underground Tank	Closure Investigation	Order/Penalty	Referred Petition Filed	5/17/93 12/8/93
Giese Construction Co. Ft. Dodge (2)	Solid Waste Air Quality Burning	Illegal Dis- posal; Open	Referred to Attorney General	Referred Petition Filed	5/28/92 3/26/93	
Giese Construction Co. Ft. Dodge (2)	Hazardous Cond. Wastewater	Site Contamination	Referred to Attorney General	Referred Petition Filed	1/19/93 3/26/93	
Hoyt, Tony L. d/b/a Lake Wilderness Camp Lee County (6)	Solid Waste Air Quality	Illegal Disposal Open Burning	Order/Penalty	Referred Petition Filed	2/11/93 4/15/93	
IBP, inc. Columbus Junction (6)	Wastewater	DNR Delinquent	Defenses	Suit Filed Judgment for DNR Motion to Enlarge Order Denying Motion Notice of Appeal Appellant's Brief	3/17/92 10/26/92 11/26/92 12/16/92 1/11/93 6/25/93	
International Hydroform Pella (5)	Underground Tank	Remedial Action	Order	Referred	5/17/93	
Iowa City, City of (6)	Solid Waste	Cover Violations	Referred to Attorney General	Referred Petition Filed	4/20/92 1/26/93	
Jack Link Truck Line, Inc. Dyersville (1)	Underground Tank	Closure Investigation	Order/Penalty	Referred	5/17/93	
Landfill of Des Moines, Inc. Des Moines #4 (5)	Updated	Solid Waste	Compliance Schedule/Other	Order/Penalty	Referred Petition Filed Trial Date	12/16/91 9/8/92 1/26/94
Landfill of Des Moines, Inc. Des Moines #5 (5)	Updated	Solid Waste	Compliance Schedule/Other	Order/Penalty	Referred Petition Filed Trial Date	5/18/92 9/8/92 1/26/94
Lytle, City of (3)	Wastewater	Pre-treatment	Referred to Attorney General	Referred Petition Filed (Added to AMPC) Trial Date	5/18/92 12/28/92 1/25/94	
Mason, Donald Rolf (3)	Solid Waste	Operation Without Permit	Order	Referred Petition Filed	1/21/92 8/26/92	
Martinez, Vincent d/b/a Martinez Sewer Service Des Moines (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed	2/17/92 12/21/92	
Bob McKinnis Excavating & Grading v. IDNR	Hazardous Condition	DNR Delinquent	Defenses	Suit Filed DNR Motion to Dismiss Ruling on Motion to Dismiss and Rehearing	3/12/91 5/8/91 3/26/92	

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS August 1, 1993

Name, Location and Region Number	Program	Alleged Violation	DNR Action	How or Updated Status	Date
Midway Water & Lighting Marion (1)	Drinking Water	Ming/Ergg; MCL-Sectoria	Order/Penalty	Referred Petition Filed	12/21/92 4/21/93
Moore, Ron d/b/a 63-880 Cafe Malcom (5)	Drinking Water	Ming/Ergg; Nitrate; Other	Order/Penalty	Referred Payment Schedule (\$1,000/Admin.)	11/16/92 4/23/93
Pondell, Robert B. Pondell Brothers Trucking Kingsley (3)	Underground Tank	Closure Investigation	Order/Penalty	Referred	5/17/93
Pringle, Michael and Brenda d/b/a Follet's Top Camanche (6)	Drinking Water	Ming/Ergg; Bacteria/Nitrate	Referred to Attorney General	Referred Petition Filed	6/15/92 3/6/93
Prusa, John; Bradford Paving Bradford (2)	Underground Tank	Closure Investigation	Order	Referred Petition Filed	10/19/92 12/24/92
Sadler, Bernard and Ger Mlar Farms, Inc. Allamakee Co. (1)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	9/21/92 12/24/92
Schultz, Albert and Lowe Iron Works Ely (1)	Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed Trial Date	9/26/89 5/26/90 11/28/93
Sharp, Tim Gas-N-Co Newton (5)	Updated Underground Tank	Site Check	Order/Penalty	Referred Petition Filed	5/17/93 7/27/93
Shelley, Roberts and Sally Outhouse Center (4)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Trial Date Ruling (\$1,000/Admin. Clean-up Order) Notice of Appeal Appellant's Brief State's Brief	4/15/91 7/18/91 5/19/92 8/25/92 9/17/92 11/29/92 1/11/93
Smith, Don Dallas Center (5)	Underground Tank	Closure Investigation/ Failure to Register	Order	Referred Petition Filed Trial Date	10/19/92 3/22/93 12/21/93
Soo Line Railroad Co. Mason City (2)	Wastewater Hitz. Condition	Prohibited Discharge Remedial Action	Referred to Attorney General	Referred Petition Filed	7/15/91 12/17/92
Stark, Marion Kellerton (4)	Underground Tank	Closure Investigation	Order/Penalty	Referred Petition Filed	10/19/92 4/16/93
Starling, Vera Perry (5)	Solid Waste	Illegal Disposal	Order	Referred Petition Filed	11/16/92 4/14/93
Vonderhaar, Leonard Holy Cross (1)	Air Quality	Open Dumping	Referred to Attorney General	Referred Petition Filed	8/17/92 3/24/93
Winterset, City of (5)	Wastewater	Effluent Limits	Referred to Attorney General	Referred Petition Filed	7/28/92 3/23/93
Wunschel, Vernon Idle Grove (3)	Underground Tank	Closure Investigation	Order/Penalty	Referred	2/17/92
Yates, Clifford Counsell Bluffs (4)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Petition Filed	4/28/92 11/23/92
Young, David Sharp Oil Company Cassy (5)	Underground Tank	Closure Investigation	Order/Penalty	Referred	5/17/93

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES August 1, 1993

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oslewin Soil Service	Administrative Order	WM	Landa	Hearing continued.
5-12-87	Iowa City Agency NHP	Administrative Order	WI	Hansen	Facility requested DNR calculate MIA and permit limits for proposed upgrade.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Morrison	SCR submitted.
10-20-88	North Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	NC	Murphy	Ruling on dismissal/intervention 11/14/92. Petition for Judicial Review. Judicial review hearing continued.
1-25-89	Amoco Oil Co. - Des Moines 7LTY05	Administrative Order	UT	Morrison	Clean-up progressing. Review progress.
5-01-89	Amoco Oil Co. - West Des Moines	Administrative Order	UT	Morrison	Compliance initiated. Review progress.
6-08-89	Shaver Road Investments	Site Registry	WM	Landa	Hearing continued. Discovery initiated.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	WM	Landa	Hearing continued. Discovery initiated.
6-08-89	Lehigh Portland Cement Co.	Site Registry	WM	Murphy	Hearing continued. Discovery initiated.
6-12-89	Amara	Site Registry	NC	Landa	Negotiating before filing.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	NC	Murphy	District court affirms Dept. - 4/23/93. Appealed to Iowa Supreme Court.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	NC	Landa	Negotiation proceeding.
10-24-89	Consumers Cooperative Assoc.	Site Registry	NC	Landa	Negotiation proceeding.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	NC	Murphy	Hearing continued pending negotiations.
11-20-89	FFCA/IIP	Site Registry	NC	Murphy	Considering dismissal.
4-23-90	Sioux City, City of	Administrative Order	WI	Hansen	Amended order to be issued.
5-08-90	Teneco Inc./Champion Co. Site	Site Registry	WM	Landa	Settlement proposed.
5-14-90	Van Dusen Airport Services	Administrative Order	NC	Landa	Compliance initiated.
5-14-90	Alter Trading Corp. (Council Bluffs)	Administrative Order	SU	Kennedy	Negotiating before filing.
5-15-90	Des Moines, City of	Administrative Order	NC	Landa	Hearing continued. Settlement proposed.
6-20-90	Des Moines, City of	NPODES Permit Cond.	WI	Hansen	City response under review by EPD.
7-02-90	Kenduk Savings Bank and Trust Kenduk Coal Gas Site	Site Registry	WM	Landa	Hearing continued.
7-30-90	Key City Coal Gas Site; Murphy Trust & Howard Pisker	Site Registry	WM	Landa	Decision appealed (Pisker). Motion to intervene denied 2/17/91 (Murphy Trust)
8-01-90	J.I. Case Company	Site Registry	WM	Preziosi	Hearing set for 11/5/93.
9-10-90	IBP, Inc. Columbus Junction	Administrative Order NPODES Permit	WM	Hansen	Appealed to Polk Co. District Court. Judgment for DNR. Appealed to Supreme Court. Briefs submitted.
9-12-90	Michael & Joyce Hous; George H. Gronau	Administrative Order	UT	Morrison	New party has assumed liability. Will dismiss case upon completion of SCR.
9-20-90	Duane Schwartzing	Variance Denial	SU	Kennedy	Hearing continued.
10-15-90	Westside General Store Corp.	Administrative Order	UT	Morrison	Investigate alternatives-finalize inability, etc.

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# Environmental Protection Commission Minutes

## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES August 1, 1993

DATE RECEIVED	NAME OF CASE	ACTION APPEALS	PROGRAM	ASSIGNED TO	STATUS
10-18-90	Merion Prusse	Claim	HC	Murphy	Proposed decision - 2/18/93. Appealed to EPC. Affirmed/modified - 6/21/93. Appealed to Cedar County District Court.
11-15-90	Springwood Enterprises, Inc.	Water Use Permit	WR	Clerk	Hearing continued.
12-04-90	United States Gypsum Company	Administrative Order	SW	Kennedy	Negotiating before filing.
12-21-90	Des Moines, City of	Administrative Order	UT	Morrison	Settlement close.
12-27-90	McAtee Tire Service, Inc.	Administrative Order	SW	Kennedy	Hearing continued.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Administrative Order	SW	Kennedy	Hearing set for 8/24/93.
1-09-91	Isom Southern utilities	Administrative Order	HC	Preziosi	Hearing continued to 8/09/93.
1-28-91	McDowell Dem #1 & #2	Administrative Order	FP	Clerk	Negotiating before filing.
3-08-91	ADM - Cedar Rapids	Conditional Permit	AG	Preziosi	Negotiating settlement.
3-22-91	Mitchell Bros. Boars and Gilts	Administrative Order	WJ	Murphy	Negotiating before filing.
5-09-91	Oakaloosa Food Products Corp.	Administrative Order	WJ	Hansen	Letter sent 9/4/92 regarding resolution of appeal.
5-16-91	Oakaloosa, City of	Administrative Order	WJ	Hansen	8/7/93 - Settlement offer to City. 8/29/93 - Offer accepted; additional extension requested.
5-20-91	Great Rivers Coop--Lockridge	Site Registry	HC	Murphy	Settlement proposed.
7-15-91	Des Moines Independent School District - North High School	Site Registry	HC	Murphy	Firestone proceeding with site investigation.
7-22-91	Rupp Tire	Administrative Order	UT	Morrison	Consent order signed.
7-24-91	Alter Trading Corp. (Des Moines)	Administrative Order	SW	Kennedy	Negotiating before filing.
7-27-91	Chicago North Western; Bonnie Bell; Phillips Petroleum; Amoco Oil Co.	Administrative Order	HC	Murphy	Hearing continued. Compliance hearing completion.
9-25-91	Archer Daniels Midland	Administrative Order	SW	Kennedy	Negotiating before filing.
1-07-92	Wlata, City of	Administrative Order	WS	Hansen	2/93 revised report reviewed by WS - new schedule proposed.
1-17-92	Hickory Hollow Water Co.	Administrative Order	WS	Hansen	Ltr. received 7/28/92 regarding compliance. Settlement offer to WS. Counter offer 7/15/93.
1-21-92	Dell Oil, Ltd.	Administrative Order	HC	Morrison	Settlement draft proposed.
1-30-92	Center Oil Co., Inc.	Administrative Order	HC	Murphy	Negotiating before filing.
2-28-92	William H. Viner	Administrative Order	UT	Morrison	Consent order drafted. Awaiting execution. Attorney contacted regarding response.
3-12-92	Farmers Cooperative Elevator - Martelle	Administrative Order	HC	Murphy	Settled.
3-30-92	White Consolidated Industries	Administrative Order	WJ	Hansen	Negotiating before filing.
4-03-92	Charles P. Schafer; Stringtown Properties; First Community National Bank	Administrative Order	UT	Morrison	Settled.
4-07-92	Humboldt Co. Sanitary Landfill	Administrative Order	SW	Kennedy	Hearing continued until further order.
4-09-92	Wayne Transports, Inc.	Administrative Order	WJ	Murphy	Negotiating before filing.

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DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
CONTESTED CASES  
AUGUST 1, 1993

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DATE RECEIVED	NAME OF CASE	ACTION APPEAL	PROGRAM	ASSIGNED TO	STATUS
4-15-92	Mulgrew Oil Co.	Administrative Order	HC	Wornton	Negotiating before filing.
4-24-92	Charles A. Kerr	Administrative Order	UT	Wornton	Financial inability claimed. Requesting document.
4-30-92	Poussifek Water Assoc.	Administrative Order	MS	Nansen	Negotiating before filing.
5-05-92	Plymouth Cooperative Oil Co.	Administrative Order	WR	Murphy	Negotiating before filing.
5-12-92	Perle & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-15-92	Heartland Lysine, Inc.	Tax Certification	AG	Preziosi	Negotiating before filing.
5-27-92	Seebetz Chevrolet-Olds	Administrative Order	UT	Wornton	Financial inability claimed. Request documents.
6-05-92	Wilson Foods	Permit Denial	AR	Preziosi	Negotiating before filing.
6-10-92	Marjorie Jarvis	Administrative Order	UT	Wornton	Hearing set for 8/6/93.
6-23-92	Chickasaw County Board of Supervisors, Chickasaw Co. SLP	Administrative Order	SW	Kennedy	Negotiating before filing.
6-26-92	Karl Ludwig; Jena, Inc.; Hale Oil Co.; TFR Co.	Administrative Order	UT	Wornton	Settled.
6-26-92 10-05-92 1-12-93	Waste Systems Corp. and Robert Koch d/b/a Winnebago Co. SLP	Administrative Order Denial of Comp. Plan Amended Order	SW	Kennedy	Settlement pending.
7-01-92	Richard A. Newman	Administrative Order	SW	Kennedy	Hearing set for 8/23/93.
7-01-92	Des Moines Independent School District-North High	Administrative Order	WR	Murphy	Firestone proceeding with site investigation
8-06-92	Randy Sanin and Vickie Bramick	Administrative Order	SW	Kennedy	Negotiating before filing.
8-13-92	Ida County Sanitary Landfill	Administrative Order	SW	Kennedy	Negotiating before filing.
8-13-92	Iowa Conference of the United Church of Christ	Administrative Order	FP	Clark	Negotiating before filing.
8-26-92	Dean Norcross d/b/a Norcross & Sons	Administrative Order	UT	Wornton	Financial inability claimed. Request documents.
8-27-92	Decatur City, City of	Administrative Order	UT	Wornton	Report received. Review underway.
8-31-92	Cedar Valley Corp.	Administrative Order	AG	Preziosi	Settlement close.
9-03-92	Casa Power and Equipment	Administrative Order	MS	Nansen	Case proposal to resolve appeal to Dept.
9-21-92	Buffalo Bill Estates, Inc.	Administrative Order	MS	Clark	Negotiating before filing.
9-21-92	ITUC	Administrative Order	AG	Preziosi	Negotiating before filing.
9-22-92	King's Terrace HUP	Administrative Order	WR	Nansen	Negotiating before filing.
10-06-92	Lloyd Becker	Administrative Order	SW	Kennedy	Negotiating before filing.
10-07-92	E. Kent and Joan Cooper	Administrative Order	UT	Wornton	Settlement drafted.
10-12-92	Elden Krambeck	Administrative Order	AG	Preziosi	Hearing postponed indefinitely.
10-16-92	Ron Jungling d/b/a Jungling Service	Administrative Order	UT	Wornton	Compliance except for penalty. Making demand for penalty.
10-16-92	Ames, City of; Cy-Ride	Permit Denial	AG	Preziosi	Settlement close.
10-28-92	Albert Rohrer, Jr.	Administrative Order	SW	Kennedy	Negotiating before filing.
11-13-92	Tracy Below	Administrative Order	WR	Clark	Hearing continued.

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES August 1, 1993

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
11-16-92	Grand Laboratories Inc.	Administrative Order	WM	Hansen	4/26/93 Dept. letter to facility rejecting revised assessment plan.
11-16-92	Frank Hulsizer	Administrative Order	SW	Kennedy	Negotiating before filing.
11-23-92	Cargill, Inc.	Administrative Order	SW/WM	Kennedy	Informal meeting 12/4/92.
12-04-92	Fausser Oil Co., Inc.	Administrative Order	UT	Wornson	Second demand letter sent.
12-14-92	Quantum	Permit Conditions	WM	Hansen	1/23/93 - info submitted for EPA review. 3/30/93 Dept. settlement offer made. 5/03/93 - response from company.
12-14-92	Gary Lalar	Administrative Order	AO/SW	Kennedy	Negotiating before filing.
12-15-92	IBP, Inc. Geneseo, IL	SMA Denial	SW	Kennedy	Negotiating before filing.
1-12-93	Chicago & North Western Transportation Co.	Administrative Order	MC	Wornson	Negotiating before filing.
1-22-93	Pirelli Armstrong Tire Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
1-26-93	Midway Oil Company (Indiana)	Administrative Order	UT	Wornson	Negotiating penalty.
1-26-93	Raven Corp.; Midway Oil Co. (Toledo)	Administrative Order	UT	Wornson	Negotiating penalty.
1-28-93	Lehigh Portland Cement	Permit Conditions	WM	Hansen	7/15/93 - Company accepted Dept. offer.. NPDES permit issued. Settled.
1-29-93	Case Corporation	Permit Conditions	US	Hansen	3/1/93 Case proposal to Sub to resolve appeal.
2-19-93	TRS Industries, Inc.; City of Des Moines	Administrative Order	SW	Kennedy	Hearing held for 7/06/93. Awaiting decision.
2-24-93	Salem Lutheran Church	US Classification	US	Clark	Settlement close.
3/09-93	James, William d/b/a Bill James Agencies	Administrative Order	SW	Kennedy	Negotiating before filing.
3/11/93	Lend Rent, Inc.	Administrative Order	SW	Wornson	Compliance delayed due to water problems.
3/15/93	Pat Benjamin	Administrative Order	UT	Wornson	Analyzing financial insolvency.
3/19/93	Holman Inc.	Administrative Order	AO	Preziosi	Negotiating before filing.
3/29/93	Henning Wood, Inc.	Administrative Order	SW	Kennedy	Negotiating before filing.
4/02/93	Newton, City of	Administrative Order	SW	Kennedy	Negotiating before filing.
4/05/93	Cyclone Steeple Jacks, Inc.	Administrative Order	AO	Preziosi	Negotiating before filing.
4/05/93	Hopkinton, City of	WM Operator Certification	WM	Hansen	Under review by EPA.
4/09/93	Economy Solar Corp.	Administrative Order	AO	Preziosi	Hearing set for 9/16/93.
4/09/93	Fine Oil Co., Inc.	Administrative Order	AO/MC WM	Preziosi	Negotiating before filing.
4/09/93	Wells Dairy, Inc.	Administrative Order	WM	Hansen	Plan of action submitted. Under review by EPA.

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## DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES August 1, 1993

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
5/10/93	Advanced Technologies	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/21/93	Technical Asbestos Control	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/23/93	Fellner Motors	Administrative Order	FP	Clark	Negotiating before filing.
5/28/93	Des Moines County Regional Solid Waste Commission	Administrative Order	SW	Kennedy	Settled.
6/01/93	Graham Tire Co. of Spencer	Administrative Order	UT	Morrison	Negotiating before filing.
6/17/93	Laurence Schmitz, Gerald Schmitz, Duane Schmitz, Vernon Schmitz, and Ruth Ann Frieders	Permit Issuance	FP	Clark	Negotiating before filing..
6/21/93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing..
6/13/93	Leo Schachtner	Permit Issuance.	FP	Clark	Negotiating before filing.
6/29/93	Hel-Ray HMP and Sales	Administrative Order	WM	Clark	Negotiating before filing..
7/02/93	Marilyn Stanbrough; Donna Stanbrough	Administrative Order	SW	Kennedy	New case.
7/06/93	Dennis E. Good	Administrative Order	UT	Morrison	New case.
7/09/93	Oakwood Park Water, Inc.	Administrative Order	WS	Hansen	New case.
4/12/93	LeMars, City of	Administrative Order	WM	Hansen	Plan of action submitted. Under review by EPD.
4/16/93	Phil McReina	Administrative Order	SW	Kennedy	Negotiating before filing.
4/19/93	Council Bluffs, City of	Permit Conditions	WM	Hansen	Under review by EPD.
4/19/93	Enviro Safe Air	Administrative Order	AQ	Preziosi	Negotiating before filing.
4/21/93	Donald Udell	Administrative Order	SW	Kennedy	Negotiating before filing.
4/26/93	Crane Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
4/26/93	Caseys General Store	Administrative Order	AQ	Preziosi	Negotiating before filing.
4/26/93	Iowa-Illinois Thermal Insulation, Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
4/29/93	Technical Asbestos Control	Administrative Order	AQ	Preziosi	Negotiating before filing.
4/30/93	R. Excavating, Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/07/93	Midwest Asbestos, Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/10/93	Advanced Technologies	Administrative Order	AQ	Preziosi	Negotiating before filing.
7/12/93	Thomas L. Burt, et.al.	Administrative Order	SW	Kennedy	New case.
7/20/93	Valley Restaurant/Barp Oil; Mary & Carl Wierp; and Robert Radford	Administrative Order	UT	Morrison	New case.
7/23/93	Blue Spruce Feedlots, Inc.	Administrative Order	UT	Morrison	New case.

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A lengthy discussion took place regarding the floods in Iowa and the department's role in testing and analyzing the drinking water prior to coming back on line, as well as other areas of recovery following the floods.

Clark Yeager asked who is staking the 500 year floodplain.

Mr. Stokes stated that some of the DNR floodplain staff are working on it with assistance of locals.

Charlotte Mohr asked why the Eldon Krambeck case was postponed indefinitely.

Mr. Stokes stated that postponement of the case is due to the department working on a penalty settlement with him.

Discussion followed regarding the number of administrative penalty appeals.

### INFORMATIONAL ONLY

## PROPOSED RULE--CHAPTER 131, NOTIFICATION OF HAZARDOUS CONDITIONS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The attached rule change to Chapter 131, Notification of Hazardous Conditions, are provided for information purposes. The changes merely update the rules to incorporate changes in the Iowa Code in recent years. A Notice of Intended Action will be brought forward at next month's meeting for approval.

### ENVIRONMENTAL PROTECTION COMMISSION [567]

#### NOTICE OF INTENDED ACTION

Pursuant to the authority of Iowa Code sections 455A.6 and 455B.383(1), the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 131, "Notification of Hazardous Conditions." Iowa Administrative Code.

The proposed amendment makes several general housekeeping changes which will make this chapter consistent with the Code of Iowa.

Any interested person may make written suggestions or comments on the amendments to the rule proposed in this Notice of Intended Action prior to \_\_\_\_\_. Such written comments should be directed to Ron Kozel, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; FAX (515) 281-8895. Persons who have questions should contact Mr. Kozel, at telephone (515) 281-8883 or at the offices on the fifth floor of the Wallace State Office Building, Des Moines, Iowa.

Persons are also invited to present oral or written comments at a public hearing which will be held \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ in the \_\_\_\_\_ of the Wallace State Office Building, East 9th and Grand Avenues, Des Moines, Iowa. At the hearing persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This amendment is intended to implement Iowa Code sections 455B.381 and 455B.386.  
The following amendments are proposed.

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ITEM 1. Amend rule 567--131.1(455B), definition of "hazardous condition," as follows:

"Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state or into the atmosphere which, because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate or potential danger to the public health or safety or to the environment. ~~Hazardous condition includes any accident involving hazardous materials required to be reported under Iowa Code section 321.266(4).~~

ITEM 2. Amend rule 567--131.2(455B), introductory paragraph, as follows:

567--131.2(455B) Report of hazardous conditions. Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the department (at 515/281-8694), ~~the disaster services division, department of public defense (at 515/281-3231),~~ and the local police department or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. A sheriff or police chief ~~or peace officer or the director of the disaster services division, department of public defense~~ who has been notified of a hazardous condition shall immediately notify the department. ~~Notification by a sheriff or police chief or peace officer or the disaster services division, department of public defense shall be considered to be notification of the department for purposes of this rule.~~ Reports made pursuant to this rule ~~should~~ shall be confirmed in writing as provided in 131.2(2).

~~A carrier transporting hazardous materials by rail, air water or upon a public highway gives the notice required by Iowa Code section 421.266(4) by notifying the disaster services division, department of public defense shall be deemed to have complied with this rule.~~

ITEM 3. Amend subrule 131.2(2), introductory paragraph, as follows:

131.2(2) Written report. The written report of such a hazardous conditions ~~should~~ shall be submitted to the department within thirty (30) days and contain the following information:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director



Mr. Stokes briefly reviewed the proposed rule.

Charlotte Mohr questioned the accuracy of the language in Item 1, pertaining to "public health or safety."

Mr. Stokes noted that staff will review it and make necessary corrections.

Nancylee Siebenmann asked why the requirement for notification when transporting hazardous materials is deleted on page 2.

Mr. Stokes stated that, generally, that type of notification would be handled and coordinated through the DOT. He added that it is a redundancy of other Code authority but he will check on it.

INFORMATIONAL ONLY

**NOTICE OF INTENDED ACTION—CHAPTER 23, EMISSION STANDARDS FOR CONTAMINANTS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Attached is a draft rule to amend existing air quality regulations providing exemptions from open burning prohibitions for "training fires".

The Commission is asked to approve a Notice of Intended Action at their August Commission meeting.

**ENVIRONMENTAL PROTECTION COMMISSION [367]  
Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 23, "Emission Standards for Contaminants", Iowa Administrative Code.

The Commission proposes to amend paragraph 23.2(3)"g" by revising the training fire notification requirements. This revision makes the notification requirements consistent with the asbestos National Emission Standards for Hazardous Air Pollutants.

Any interested person may make written suggestions or comments on the proposed amendment on or before (date) . Such written materials should be directed to the Enforcement and Compliance Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, FAX (515) 281-8895. Persons who wish to convey their views orally should contact Ms. Anne Preziosi, Enforcement and Compliance Bureau, at (515) 281-6243.



Also, there will be a public hearing on (date) , at (time) in the (room) of the (building) , at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This amendment may impact small businesses.

This rule is intended to implement Iowa Code chapter 455B.133.

The following amendment is proposed.

Item 1. Amend paragraph 23.2(3)"g" as follows:

g. Training fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that ~~the director receives notice in writing at least one week written notification is postmarked or delivered to the director at least ten working days~~ before such action commences. Notification shall be made in accordance with 40 CFR Section 61.145, "Standard for demolition and renovation", of the asbestos National Emission Standards for Hazardous Air Pollutants, as amended through March 5, 1992. All asphalt roofing and asbestos-containing materials shall be removed prior to the training fire.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

Mr. Stokes briefly reviewed the rules.

*Motion was made by Nancy Lee Siebenmann to approve Notice of Intended Action--Chapter 23, Emission Standards for Contaminants. Seconded by Clark Yeager. Motion carried unanimously.*

**APPROVED AS PRESENTED**

## **FINAL RULE--CHAPTER 135, UST ABILITY TO PAY**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Director requests adoption of the attached amendment to Chapter 135. The proposed amendment adds a new subrule 135.11 that provides methods for evaluating the financial condition of individual and corporate owners and operators of underground storage tanks who

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claim a financial inability to comply with corrective action and closure of underground storage tanks under Chapter 135. The department will be using the evaluation methods to provide guidance in assessing individual claims.

The department is required to determine a responsible party's ability to pay as one of a number of conditions which authorize the use of "Federal LUST Trust Fund" monies for corrective action as provided in 42 U.S.C. 6991b(h)a and the department's cooperative agreement with the federal Environmental Protection Agency. In addition, evaluation of a responsible party's financial ability will assist the department in planning decisions including enforcement options.

One comment on the rules was received and is enclosed. Our response is enclosed and included in the preamble to the rule.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the Authority of the Iowa Code section 455B.474, the Environmental Protection Commission adopted at a public meeting held August 16, 1993, new rule 135.11 that amended Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks." The rule was published as a Notice of Intended Action, ARC 3840A, in the March 17, 1993, Iowa Administrative Bulletin.

The proposed rule pertained to the policy and procedure the department would apply when evaluating claims by owners and operators of underground storage tanks of financial inability to comply with corrective action and tank closure requirements.

A public hearing on the new subrule was held April 8, 1993, with no one attending. One written comment was received. The concern raised was that the guidance materials used in assessing both corporate and individual data did not adequately explain how the determination of financial ability or inability is made as opposed to simply the entry and manipulation of financial data.

In regard to the evaluation of individual financial conditions, the department agrees that the guidance does not provide for specific criteria to be applied against financial data which will result in a determination of ability or inability. The department intends to use the guidance merely as a tool in assessing claims on a case by case basis applying accepted financial assessment methods in making a determination of financial ability to pay for a particular corrective action or closure requirement. Assessment of cash flow, liquid and non-liquid assets, short and intermediate financing potential, and asset exemptions will be analyzed.

Similarly, the corporate "ABEL" guidance applies a complicated set of generally accepted financial models for assessing past and future cash flow. The methodology is explained in the "ABEL Users Manual", Appendix A and B. The method uses a statistical modeling method for predicting future cash flow. It does not, for example, closely evaluate the use of assets in assessing financial ability and is limited to information provided on Federal tax forms. Although the ABEL model does have a method for determining financial ability, the determination is not conclusive. Other factors may be considered on a case by case basis, especially when reviewing smaller, closely held corporations.

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The primary purpose of the rule is to give the regulated public notice that claims of financial inability will be evaluated for purposes of assessing enforcement options and determining financial conditions which would authorize the use of Federal LUST Trust Fund money for corrective action. The department believes that the assessment process involves too many case specific factors to warrant a more specific set of criteria. More experience with the process may result in the development of more specific guidance policies.

The adopted rule makes several revisions of the rule as previously published which the department believes are not substantial modifications requiring additional notice. The modifications state the department may request additional financial information from time to time in order to verify or supplement reported data (last sentence in subrule 135.11(1)). The rule more clearly states that the use of the individual and corporate guidance materials are only one tool in assessing financial ability and that the department intends to use generally accepted principles of financial assessment utilized in the finance industry (added to the end of subrules 135.22(2) and (3)).

This amendment is intended to implement Iowa Code section 455B.474.

ITEM 1. Add the following new subrule 135.11:

**567--135.11(455B) Evaluation of Ability to Pay.**

**135.11(1) General.** The ability to pay guidance procedures referenced in this rule will be used by the department when an owner or operator of an underground storage tank (UST) claims to be financially unable to comply with corrective action requirements under 135.7(455B) and 135.8(455B) or closure investigation requirements under 135.9(455B). If an owner or operator of a regulated UST claims to be financially unable to meet these departmental requirements, that responsible party must provide documentation of their finances on forms provided by the Department in order for the department to act on the claim of financial inability. The department may request additional financial documentation to verify or supplement reported information.

**135.11(2) Individual Claims.** The financial ability of individual owners and operators of USTs, with or without an active business, (including but not limited to sole proprietorships and general partnerships), shall be evaluated using the "Individual Ability to Pay Guidance" document dated June 19, 1992 and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

**135.11(3) Corporate Claims.** The financial ability of corporate owners and operators of underground storage tanks shall be evaluated using the June 1992 version of "ABEL" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

**135.11(4) Federal LUST Trust Fund.** The financial ability of owners and operators of USTs shall be evaluated for the purpose of determining if the department is authorized to use federal LUST Trust Fund monies as provided in the current cooperative agreement with the U.S. Environmental Protection Agency, Region VII. A determination of financial inability does not create an entitlement or any expectation interest on behalf of an owner or operator that Federal LUST Trust Fund monies will be used for corrective action at any individual site.

**135.11(5)** The evaluation of financial ability will also be used by the department in making other administrative planning decisions including but not limited to decisions as whether

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to pursue and when to pursue administrative or judicial enforcement of regulatory and statutory duties and the assessment of penalties. A determination of financial inability does not create an entitlement or expectation interest that enforcement actions will be deferred or suspended. The evaluation of this factor is only one of many affecting the department's fully discretionary decisions regarding enforcement options and program planning.

135.11(6) An evaluation of financial inability as provided in this rule does not relieve any owner or operator of legal liability to comply with department rules or Iowa Code chapter 455B or provide a defense to any legal actions to establish liability or enforce compliance.

(Public comment is shown below)

AHLERS, COONEY, DORWEILER, HAYNIE, SMITH & ALLBEE, PC.

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April 13, 1993

VIA TELEFAX

Mr. Keith Bridson  
Iowa Department of Natural Resources  
Wallace State Office Building  
900 East Grand Avenue  
Des Moines, Iowa 50319

Re: Comments on Rulemaking  
ARC 3840A  
Evaluation of UST Ability to Pay

Dear Mr. Bridson:

I appreciate the opportunity to comment on DNR's proposed rulemaking regarding the evaluation of ability to pay under the UST program. Thank you, also, for promptly furnishing me with the two guidance documents referenced by the proposed rule as requested so that I might comment.

I begin by commending DNR for undertaking this rulemaking. As a legal practitioner in the area of environmental law, I have and continue to have cause to raise the issue of ability to pay on behalf of owner/operators of underground storage tanks. Unfortunately, the Iowa program of assisting owner/operators does not fully meet the financial needs of all owner/operators and thus the need to address this issue. It is important that the criteria to be used by DNR in making this determination be fully developed in a rule. However, I do not believe the approach proposed achieves the goal intended. My specific comments are outlined below:

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1. Proposed 567 IAC 135.11(3). This rule states that the financial ability of corporate owners/operators will be evaluated using the June 1992 version of ABEL. However, the preamble and the materials furnished to me for review by the department carry a date of October, 1991. For the purpose of my review, I assume this is a mere misstatement of date in the proposed rule and that the rule is intended to reference the October, 1991 guidance.

The October guidance incorporated by reference in the proposed rule is not a guidance document. Rather, it is a user's manual to the ABEL computer program. The document only instructs the user how to input certain information into a computer program. It is a procedural document. It does not provide substantive information on how ability to pay will be evaluated by the department. Although the guidance states that five ratios will be applied by the computer program, it does not explain those ratios or their significance as to the costs of compliance actions required by the underground storage tank program. It does not state whether all ratios must show financial health to cause an owner/operator to be determined able to pay, or whether some or certain of the ratios are of more significance to that determination. This guidance does not advise the regulated community how the determination is to be made.

In the past two years I have been involved in several administrative cases brought by the U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act. In all of those matters involving corporate respondents, EPA initially attempted to apply the ABEL model to calculate ability to pay. (Ultimately, EPA had to bring an accountant into the process to make case-by-case determinations because ABEL was not a reliable system.) In all of those cases, I requested EPA explain the program to me and to the respondent so that we might be able to accurately provide information and discuss the application of the computer model to the specific corporation. EPA has not been able to explain the model nor provide any more substantive information about ABEL than the document referenced in DNR's proposed rule. The significance of this experience is that the creators of the program cannot explain it, but rather attempt to rely on a computer program to make a critical decision as to ability to pay. Although I certainly do not question the use of a computer to "run the numbers," a regulatory agency must be able to understand and explain the substantive provisions of the program to ensure proper application to the factual situation before it. Without a basic understanding of the underlying criteria, assumptions, and other relevant factors, the owner/operator is being denied the opportunity to address the criteria upon which the regulatory agency is basing its decision, and thus being denied due process. This is especially true if DNR intends to use

this information to making enforcement planning decisions as suggested by proposed rule 567 IAC 135.11(5).

In the end, the guidance referenced by the proposed rule does not really explain how the final determination will be made. It explains what data ABEL will provide to the user and what options the user may employ to manipulate the data to provide further analysis. But it does not state, or I could not find through my summary review of the 100 page plus document, when a corporation has the ability to pay and when it does not.

2. Proposed 567 IAC 135.11(2). This proposed rule references the "Individual Ability to Pay Guidance" dated June 1992 as the tool to be used by DNR to determine ability to pay for individuals. I agree with DNR that it is important to have a separate guidance document for this purpose.

As stated in comment No. 1 above, the criteria established in the rules must, bottomline, establish how the final determination will be made. The referenced guidance for individuals guidance provides options to DNR as to how to make that determination, but it does not state which option DNR will employ. For example, the discussion of the phase I income test states on page 2-3 of the guidance that IDNR can select which "minimum Income" guideline it will apply from three options. It does not tell the regulated community which option DNR has selected. That same page states that IDNR is not bound by one of three options but can employ another set of data. Again, the guidance does not establish which set of data or which rules will be used by DNR in making the determination.

In both phase I and phase II calculations, it appears that the income of the applicant is proposed to be compared to median household incomes in Iowa. Although it is obvious that such information has some relevance as to ability to pay, it is not clear how the median household income in Iowa relates to the cost of UST compliance and the ability of the owner/operator to pay such costs.

In the net worth assessment provisions of the guidance, liquidity of assets does not seem to be taken into consideration. It is often the case with individuals that a net worth ratio may show financial health, but some assets are so non-liquid as to lessen the significance of the determination.

ANLERS, GOWNEY, DORWEILER, HAYNE, SMITH & ALLBER, P.C.  
ATTORNEYS AT LAW DES MOINES, IOWA



Again, as with comment No. 1 above, the guidance does not advise the regulated community how the determination is finally made. That is, the guidance explains that certain ratios are considered a sign of financial health. What the guidance does not say is that if all of the ratios, or some of the ratios, or certain of the ratios meet a certain criteria then the owner/operator will be considered able to pay.

Thank you for your consideration of these comments.

Very truly yours,

AHLERS, COONEY, DORWEILER,  
HAYNIE, SMITH, & ALLBEE, P.C.

By:

*Jane B. McAllister*  
Jane B. McAllister

Mr. Stokes explained the rules and noted that staff has tried to build in some subjectivity of taking a look at all of the circumstances. He added that it would be difficult to come up with something that is universally applicable to a wide range of small businesses or a wide range of individuals. Staff has proposed not to adopt a specific threshold.

Verlon Britt asked what guidelines are currently used to determine an individual's ability to pay.

Mr. Stokes stated that the proposed guidelines are what is now being used but they should be in a rule.

Rozanne King asked Jane McAllister what she feels would be a good compromise.

Ms. McAllister stated that she does not have an answer and would be happy to work with staff to set up some of the same criteria that are in ABEL, but establish how that criteria will be used. She suggested possibly setting up a series of steps with specific factors to determine ability to pay.

Verlon Britt commented that the rules are vague and those who are regulated should know what they are being regulated by.

Chairperson Hartsuck asked if the ABEL program derived from EPA.

Mr. Stokes stated that it came from EPA, basically from their compliance and enforcement areas.

Discussion followed regarding the possibility of staff meeting with interested parties to develop some type of criteria to be included in the rules.

*Motion was made by Rozanne King to table the rule for 60 days. Seconded by Nancylee Siebenmann.*

Discussion followed regarding what would constitute substantive changes and require the rules to go back through the whole rulemaking process; possibly passing the rule today with a provision that criteria be brought back in 60 days; and bringing the rule back at the October meeting rather than in 60 days.

*Nancylee Siebenmann stated that she would withdraw her second in lieu of a motion that would approve the rules and require that a draft of criteria applicability be brought back to the Commission at the October meeting.*

*With the withdrawal of Commissioner Siebenmann's second, Clark Yeager seconded the motion by Commissioner King to table the rule for 60 days.*

*Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Yeager, Britt, King, and Mohr. "Nay" vote was cast by Commissioners Ehm, Siebenmann, and Hartsuck. Vote was 4-Yes to 3-No - - Motion failed due to a lack of consensus of a majority of the Commission.*

**MOTION TO TABLE FOR 60 DAYS FAILED**

Discussion followed regarding the number of Commission members it takes to pass a motion.

*Motion was made by Nancylee Siebenmann to approve Final Rule--Chapter 135, UST Ability to Pay, as presented, and request the Director to direct staff to bring back criteria on the applicability of the rule at the October meeting. Seconded by William Ehm.*

Clark Yeager indicated that he would like to delay vote on Commissioner Siebenmann's motion until staff verifies voting requirements for the Commission.

Mr. Stokes read the following from the Commission's rules: Chapter 1.6(1) Quorum. A majority of the members of the Commission constitutes a quorum. Chapter 1.6(2) Voting. The concurrence of a majority of the members of the Commission is required to determine any matter before the Commission for action, except for a vote to close a meeting which requires the concurrence of two-thirds of the members of the Commission, or the concurrence of all members present if less than two-thirds are present.

*Chairperson Hartsuck requested a roll call vote on Commissioner Siebenmann's motion. "Aye" vote was cast by Commissioners Britt, King, Siebenmann, and Hartsuck. "Nay" vote was cast by Commissioners ~~King~~<sup>Ehm</sup>, Mohr, and Yeager. Vote was 4-Yes to 3-No - - Motion failed due to lack of consensus of a majority of the Commission.*



**MOTION TO APPROVE WITH STIPULATIONS FAILED**

Additional discussion followed regarding the 180 day delay if the rule has to go through the rulemaking process again.

Director Wilson commented that the department needs to move ahead with the rules because there are sites that need to be addressed and there has to be some judgment calls on who qualifies.

Following discussion of staff working out a list of factors to consider in determining ability to pay, the consensus of the Commission was to have staff bring the rules back next month with the list of factors included. Verlon Britt will work with staff, using his banking expertise, to make amendments to the rule.

Rozanne King stated that she appreciates the fact that someone commented on the rules even if it was only one individual. She added that she relies heavily on comments from people with a different perspective and appreciates the public comments received.

Mr. Stokes stated that the Commission is taking a real chance because they disapproved the rule as presented, and if staff comes back with something different and the Commission does not go back through formal rulemaking, but instead pretend that it is just a simple clarification of an existing rulemaking, he does not think it will be a legal set of rules.

**RULES WILL COME BEFORE COMMISSION NEXT MONTH**

**FINAL RULE--CHAPTER 136, UST FINANCIAL RESPONSIBILITY RULES FOR LOCAL GOVERNMENTS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The commission will be asked to approve final adoption of the attached amendments to Chapter 136 rules. These amendments add four new mechanisms for local units of government to show proof of financial responsibility for petroleum underground storage tanks.

These amendments are consistent with changes in federal underground storage tank regulations. State law requires state rules to be consistent with and not more stringent than federal regulations.

The only comments received during the public notice and comment period were statements of support for adoption of the rules as presented from the League of Iowa Municipalities and the Iowa State Association of Counties.

ENVIRONMENTAL PROTECTION COMMISSION[567]  
Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 136, "Financial Responsibility for Underground Storage Tanks," Iowa Administrative Code.

The amendments were published as a Notice of Intended Action, ARC 4032A, in the June 9, 1993 Iowa Administrative Bulletin. The Notice of Intended Action solicited public comment and a public hearing was held July 7, 1993. Only one comment was submitted and it supported adoption of the amendments.

The amendments contain four new mechanisms that local governments can use to show financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by releases of petroleum from their underground storage tanks. The amendments adopt changes made in the federal underground storage tank regulations published in the Thursday, February 18, 1993, Federal Register.

The purpose of the amendments is to give local government entities methods of self-insuring. The new mechanisms are a local government bond rating test, local government financial test, local government guarantee, and local government fund.

Only one change has been made to the amendments. Subrule 136.2(5) has been changed to give an actual date all local governments have to comply with financial responsibility requirements. Previously only the federal regulations were referenced.

These rules are intended to implement Iowa Code section 455B.474.

Editor's Note: Brackets and "and/or" reproduced herein as submitted by the agency.

The following amendments are adopted.

**ITEM 1.** Amend rule 567--136.3(455B) by adding the following new definitions:

"Chief financial officer," in the case of local government owners and operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

"Local government" means counties, municipalities, townships, separately chartered and operated special districts (including local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution and special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.

"Substantial governmental relationship" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of UST release such as coterminous boundaries, overlapping constituencies, common groundwater aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

**ITEM 2.** Rescind subrule 136.5(1) and insert in lieu thereof the following new subrule:

136.5(1) Subject to the limitations of subrule 136.5(2):

- a. An owner or operator, including a local government owner or operator, may use any one or combination of the mechanisms listed in rules 136.6(455B) to 136.12(455B) to demonstrate financial responsibility under this chapter for one or more underground storage tanks, and
- b. A local government owner or operator may use any one or combination of the mechanisms listed in rules 136.13(455B) to 136.16(455B) to demonstrate financial responsibility under this chapter for one or more underground storage tanks.

**ITEM 3.** Insert the following new rules 567--136.13(455B) to 567--136.16(455B) and renumber the existing rules 136.13(455B) to 136.20(455B) as 136.17(455B) to 136.24(455B).

**567--136.13(455B) Local government bond rating test.**

**136.13(1)** A general purpose local government owner or operator and/or local government serving as a guarantor may satisfy the requirements of rule 136.4(455B) by having a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard & Poor's, the lower rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

**136.13(2)** A local government owner or operator or local government serving as a guarantor that is not a general purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of rule 136.4(455B) by having a currently outstanding issue or issues of revenue bonds of \$1 million or more, excluding refunded issues, and having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

**136.13(3)** The local government owner or operator and/or guarantor must maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

**136.13(4)** To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

**Letter from Chief Financial Officer**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

<u>Issue Date</u>	<u>Maturity Date</u>	<u>Outstanding Amount</u>	<u>Bond Rating</u>	<u>Rating Agency</u>
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[Moody's or

Standard & Poors

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 567--subrule 136.13(4) of the Iowa Administrative Code on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

136.13(5) To demonstrate that it meets the local government bond rating test, the chief financial officer or local government owner or operator and/or guarantor other than a general purpose government must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

**Letter from Chief Financial Officer**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

<u>Issue Date</u>	<u>Maturity Date</u>	<u>Outstanding Amount</u>	<u>Bond Rating</u>	<u>Rating Agency</u>
[Moody's or Standard & Poor's]				

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 567--subrule 136.13(5) of the Iowa Administrative Code on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

**136.13(6)** The director of the Iowa department of natural resources may require reports of financial condition at any time from the local government owner or operator, and/or local government guarantor. If the director finds, on the basis of such reports or other information, that the local government owner or operator, and/or guarantor, no longer meets the local government bond rating test requirements of this rule, the local government owner or operator must obtain alternative coverage within 30 days after notification of such a finding.

**136.13(7)** If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator must obtain alternative coverage within 150 days of the change in status.

**567--136.14(455B) Local government financial test.**

**136.14(1)** A local government owner or operator may satisfy the requirements of rule 136.4(455B) by passing the financial test specified therein. To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges.

To pass the local government financial test, the owner or operator must meet the criteria of subrules 136.14(3) and 136.14(4) rule based on year-end financial statements for the latest completed fiscal year.

**136.14(2)** The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:



a. Total revenues. Total revenues consist of the sum of general fund operating and nonoperating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.

b. Total expenditures. Total expenditures consist of the sum of general fund operating and nonoperating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).

c. Local revenues. Local revenues consist of total revenues, as defined in paragraph 136.14(2)"a" minus the sum of all transfers from other governmental entities, including all moneys received from federal, state, or local government sources.

d. Debt service. Debt service consist of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations; includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest-bearing warrants, and excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.

e. Total funds. Total funds consist of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Total funds include federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other nonsecurity assets.

f. Population. Population consists of the number of people in the area served by the local government.

136.14(3) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.

136.14(4) The local government owner or operator must have a letter signed by the chief financial officer worded as specified in subrule 136.14(5).

136.14(5) To demonstrate that it meets the financial test under subrules 136.14(2) to 136.14(4), the chief financial officer of the local government owner or operator must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which

financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

**Letter from Chief Financial Officer**

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 567-135.3(455B) of the Iowa Administrative Code.]

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard & Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard & Poor's rating of AAA, AA, A, or BBB.

**WORKSHEET FOR MUNICIPAL FINANCIAL TEST**

**PART I: BASIC INFORMATION**

**1. Total Revenues**

**a. Revenues (dollars) \_\_\_\_\_**

Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

**b. Subtract interfund transfers (dollars) \_\_\_\_\_**

**c. Total Revenues (dollars) \_\_\_\_\_**

**2. Total Expenditures**

**a. Expenditures (dollars) \_\_\_\_\_**

Value consists of the sum of general fund operating and nonoperating expenditures including interest payments on debt,



payments for retirement of debt principal,  
and total expenditures from all other  
governmental funds including enterprise,  
debt service, capital projects, and special  
revenues.

- b. Subtract interfund transfers (dollars) \_\_\_\_\_
- c. Total Expenditures (dollars) \_\_\_\_\_

3. Local Revenues

- a. Total Revenues (from 1c) (dollars) \_\_\_\_\_
- b. Subtract total intergovernmental transfers  
(dollars) \_\_\_\_\_
- c. Local Revenues (dollars) \_\_\_\_\_

4. Debt Service

- a. Interest and fiscal charges (dollars) \_\_\_\_\_
- b. Add debt retirement (dollars) \_\_\_\_\_
- c. Total Debt Service (dollars) \_\_\_\_\_

5. Total Funds (dollars) \_\_\_\_\_  
(Sum of amounts held as cash and investment securities from all funds, excluding  
amounts held for employee retirement funds, agency  
funds, and trust funds)

6. Population (persons) \_\_\_\_\_

PART II: APPLICATION OF TEST

7. Total Revenues to Population

- a. Total Revenues (from 1c) \_\_\_\_\_
- b. Population (from 6) \_\_\_\_\_
- c. Divide 7a by 7b \_\_\_\_\_
- d. Subtract 417 \_\_\_\_\_
- e. Divide by 5,212 \_\_\_\_\_
- f. Multiply by 4.095 \_\_\_\_\_

8. Total Expenses to Population

- a. Total Expenditures (from 2c) \_\_\_\_\_
- b. Population (from 6) \_\_\_\_\_
- c. Divide 8a by 8b \_\_\_\_\_
- d. Subtract 524 \_\_\_\_\_

- e. Divide by 5,401 \_\_\_\_\_
- f. Multiply by 4.095 \_\_\_\_\_
- 9. Local Revenues to Total Revenues
  - a. Local Revenues (from 3c) \_\_\_\_\_
  - b. Total Revenues (from 1c) \_\_\_\_\_
  - c. Divide 9a by 9b \_\_\_\_\_
  - d. Subtract .695 \_\_\_\_\_
  - e. Divide by .205 \_\_\_\_\_
  - f. Multiply by 2.840 \_\_\_\_\_
- 10. Debt Service to Population
  - a. Debt Service (from 4c) \_\_\_\_\_
  - b. Population (from 6) \_\_\_\_\_
  - c. Divide 10a by 10b \_\_\_\_\_
  - d. Subtract 51 \_\_\_\_\_
  - e. Divide by 1,038 \_\_\_\_\_
  - f. Multiply by -1.866 \_\_\_\_\_
- 11. Debt Service to Total Revenues
  - a. Debt Service (from 4c) \_\_\_\_\_
  - b. Total Revenues (from 1c) \_\_\_\_\_
  - c. Divide 11a by 11b \_\_\_\_\_
  - d. Subtract .068 \_\_\_\_\_
  - e. Divide by .259 \_\_\_\_\_
  - f. Multiply by -3.533 \_\_\_\_\_
- 12. Total Revenues to Total Expenses
  - a. Total Revenues (from 1c) \_\_\_\_\_
  - b. Total Expenditures (from 2c) \_\_\_\_\_
  - c. Divide 12a by 12b \_\_\_\_\_
  - d. Subtract .910 \_\_\_\_\_
  - e. Divide by .899 \_\_\_\_\_
  - f. Multiply by 3.458 \_\_\_\_\_
- 13. Funds Balance to Total Revenues
  - a. Total Funds (from 5) \_\_\_\_\_
  - b. Total Revenues (from 1c) \_\_\_\_\_
  - c. Divide 13a by 13b \_\_\_\_\_
  - d. Subtract .891 \_\_\_\_\_

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- e. Divide by 9.156 \_\_\_\_\_
- f. Multiply by 3.270 \_\_\_\_\_
- 14. Funds Balance to Total Expenses
  - a. Total Funds (from 5) \_\_\_\_\_
  - b. Total Expenditures (from 2c) \_\_\_\_\_
  - c. Divide 14a by 14b \_\_\_\_\_
  - d. Subtract .866 \_\_\_\_\_
  - e. Divide by 6.409 \_\_\_\_\_
  - f. Multiply by 3.270 \_\_\_\_\_
- 15. Total Funds to Population
  - a. Total Funds (from 5) \_\_\_\_\_
  - b. Population (from 6) \_\_\_\_\_
  - c. Divide 15a by 15b \_\_\_\_\_
  - d. Subtract 270 \_\_\_\_\_
  - e. Divide by 4,548 \_\_\_\_\_
  - f. Multiply by 1.866 \_\_\_\_\_
- 16. Add 7f+8f+9f+10f+11f+12f+13f+14f+15f+4.937 \_\_\_\_\_

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in 567--subrule 136.14(5) of the Iowa Administrative Code on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

136.14(6) If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

136.14(7) The director of the Iowa department of natural resources may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subrules 136.13(2) to 136.13(5), the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.

136.14(8) If the local government owner or operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within 30 days of notification by the director of the Iowa department of natural resources that it no longer meets the requirements of the financial test, the owner or operator must notify the director of such failure within 10 days.

**567--136.15(455B) Local government guarantee.**

**136.15(1)** A local government owner or operator may satisfy the requirements of rule 136.4(455B) by obtaining a guarantee that conforms to the requirements of this rule. The guarantor must be either the state in which the local government owner or operator is located or a local government having a "substantial governmental relationship" with the owner and operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor must:

- a. Demonstrate that it meets the bond rating test requirement of rule 136.13(455B) and deliver a copy of the chief financial officer's letter as contained in subrule 136.13(4) to the local government owner or operator; or
- b. Demonstrate that it meets the worksheet test requirements of rule 136.14(455B) and deliver a copy of the chief financial officer's letter as contained in subrule 136.14(5) to the local government owner or operator; or
- c. Demonstrate that it meets the local government fund requirements of subrule 136.16(1), 136.16(2), or 136.16(3) and deliver a copy of the chief financial officer's letter as contained in rule 136.16(455B) to the local government owner or operator.

**136.15(2)** If the local government guarantor is unable to demonstrate financial assurance under rule 136.13(455B), or 136.14(455B) or subrules 136.16(1), 136.16(2), or 136.16(3) at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in subrule 136.23(3).

**136.15(3)** The guarantee agreement must be worded as specified in subrule 136.15(4) or 136.15(5), depending on which of the following alternative guarantee arrangements is selected:

- a. If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the director of the Iowa department of natural resources, the guarantee shall be worded as specified in 136.15(4).
- b. If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the director of the Iowa department of natural resources for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in subrule 136.15(5).

**136.15(4)** If the guarantor is a state, the local government guarantee with standby trust must be worded as specified in paragraph "a," except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, the local government guarantee with standby trust must be worded as specified in paragraph "b," except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

a. Local Government Guarantee With Standby Trust Made By a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

- (1) Guarantor is a state.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 567--Chapter 135 of the Iowa Administrative Code(IAC), and the name and address of the facility.] This guarantee satisfies 567--Chapter 136 IAC requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) Guarantor guarantees to Iowa department of natural resources and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director] of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director shall fund a standby trust fund in accordance with the provisions of 567--136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567--Chapter 135 IAC, the guarantor upon written instructions from the director shall fund a standby trust fund in accordance with the provisions of 567--136.21 IAC, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 567--136.21(455B) IAC to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567--Chapter 135 or 136 IAC.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567--Chapter 136 IAC for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(7) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
3. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
5. Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 567--136.4(455B)IAC.

(8) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator],

I hereby certify that the wording of this guarantee is identical to the wording specified in 567--subrule 136.14(4) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

b. Local Government Guarantee With Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Iowa, herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 567--136.13(455B) of the Iowa Administrative Code(IAC), the local government financial test requirements of 567--136.14(455B) IAC, or the local government fund under 567--subrule 136.16(1), 136.16(2), or 136.16(3) IAC.



(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 567--135.3(455B) IAC or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 567--Chapter 136 IAC requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Iowa department of natural resources and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [director], shall fund a standby trust fund in accordance with the provisions of 567--136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567--Chapter 135 IAC, the guarantor, upon written instructions from the [director], shall fund a standby trust fund in accordance with the provisions of 567--136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 567--136.21(455B) IAC to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567--Chapter 135 or 136 IAC.



(7) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567-Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
3. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
5. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 567--136.4(455B) IAC.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567--subrule 136.15(4) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

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136.15(5) If the guarantor is a state, the local government guarantee without standby trust must be worded as specified in paragraph "a," except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, the local government guarantee without standby trust must be worded as specified in paragraph "b," except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

a. Local Government Guarantee Without Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

#### Recitals

- (1) Guarantor is a state.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 567--Chapter 135 of the Iowa Administrative Code(IAC), and the name and address of the facility.] This guarantee satisfies 567--Chapter 136 IAC requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Guarantor guarantees to the Department of Natural Resources and to any and all third parties and obliges that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of Natural Resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567--Chapter 135 IAC, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567--Chapter 135 or 136 IAC.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567-Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(7) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
3. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
5. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 567--136.4(45.5B) IAC.

(8) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567--subrule 136.15(5) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

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b. Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 567--136.13(455B) of the Iowa Administrative Code(IAC), the local government financial test requirements of 567--136.14(455B) IAC, the local government fund under 567--subrule 136.16(1), 136.16(2) or 136.16(3) IAC.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 567--Chapter 135 IAC or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 567--Chapter 136 IAC requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Iowa department of natural resources and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567--Chapter 135 IAC, the guarantor upon written instructions from the [director], shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567--Chapter 135 or 136 IAC.

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567--Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(8) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
3. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
5. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 567--136.4(455B) IAC.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567--subrule 136.15(5) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

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**567--136.16(455B) Local government fund.** A local government owner or operator may satisfy the requirements of rule 136.4(455B) by establishing a dedicated fund account that conforms to the requirements of this rule. Except as specified in subrule 136.16(2), a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one of the following requirements:



**136.16(1)** The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks and is funded for the full amount of coverage required under rule 136.4(455B), or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or

**136.16(2)** The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, and is funded for five times the full amount of coverage required under rule 136.4(455B), or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under rule 136.4(455B), the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

**136.16(3)** The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. A payment is made to the fund once every year for seven years until the fund is fully funded. This seven year period is hereafter referred to as the "pay-in period." The amount of each payment must be determined by this formula:

$$\frac{TF - CF}{Y}$$

Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in period, and;

a. The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, or

b. The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

**136.16(4)** To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking corrective action" and/or

"compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under 567--136.4(455B) of the Iowa Administrative Code(IAC), or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage." or "The local government fund is funded for ten times the full amount of coverage required under 567--136.4(455B) IAC, or funded for part of the required amount of coverage and used in combination with other mechanisms(s) that provide the remaining coverage," or "A payment is made to the fund once every year for seven years until the fund is fully funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully funded and I have attached a letter signed by the state attorney general stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority".]

The details of the local government fund are as follows:

Amount in fund (market value of fund of close of last fiscal year): \_\_\_\_\_

[If fund balance is incrementally funded as specified in 567--subrule 136.16(4) IAC, insert:

Amount added to fund in the most recently completed fiscal year: \_\_\_\_\_

Number of years remaining in the pay-in period: \_\_\_\_\_]

A copy of the state constitutional provision, or local government statute, charter, ordinance, or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in 567--subrule 136.16(4) IAC on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

**ITEM 4.** Amend renumbered rules 567--136.18(455B) and 136.19(455B) as follows:

**567--136.18(455B) Cancellation or nonrenewal by a provider of financial assurance.**

**136.18(1)** Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

a. Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.



b. Termination of insurance or risk retention group coverage, except for non-payment or misrepresentation by the insured, or state-funded assurance may not occur until 60 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

**136.18(2)** If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in rule ~~136.15(455B)~~ 136.23(455B), the owner or operator must obtain alternate coverage as specified in this ~~rule~~ chapter within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the director of the Iowa department of natural resources of such failure and submit the name and address of the provider of financial assurance; the effective date of termination; and the evidence of the financial assistance mechanism subject to the termination maintained in accordance with subrule ~~136.8(2)~~ 136.20(2).

**567--136.19(455B) Reporting by owner or operator.**

**136.19(1)** An owner or operator must submit the appropriate forms listed in subrule ~~136.16(2)~~ 136.20(2) documenting current evidence of financial responsibility to the director of the Iowa department of natural resources.

a. Within 30 days after the owner or operator identifies a release from an underground storage tank required to be reported under 135.6(4) or 135.7(2);

b. If the owner or operator fails to obtain alternate coverage as required by this chapter, within 30 days after the owner or operator receives notice of:

(1) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor,

(2) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism,

(3) Failure of a guarantor to meet the requirements of the financial test,

(4) Other incapacity of a provider of financial assurance; or

c. As required by subrules 136.6(7) and ~~136.14(2)~~ 136.18(2).

**136.19(2)** An owner or operator must certify compliance with the financial responsibility requirements of ~~the~~ this chapter as specified in the new tank notification form when notifying the appropriate state or local agency of the installation of a new underground storage tank under subrule 135.3(3).

**136.19(3)** The director may require an owner or operator to submit evidence of financial assurance as described in subrule ~~136.14(2)~~ 136.20(2) or other information relevant to compliance with this chapter at any time.

**ITEM 5.** Rescind renumbered rule 567--136.20(455B) insert in lieu thereof the following new rule:

**567--136.20(455B) Record keeping.**

**136.20(1)** Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this chapter for an underground storage tank until released from the requirements of this chapter under rule 136.22(455B). An owner or

operator must maintain such evidence at the underground storage tank site or the owner's or operator's place of work. Records maintained off-site must be made available upon request of the Iowa department of natural resources.

136.20(2) An owner or operator must maintain the following types of evidence of financial responsibility:

a. An owner or operator using an assurance mechanism specified in rules 136.6(455B) to 136.11(455B) or rules 136.13(455B) to 136.16(455B) must maintain a copy of the instrument worded as specified.

b. An owner or operator using a financial test or guarantee, or a local government financial test or a local government guarantee supported by the local government financial test must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than 120 days after the close of the financial reporting year.

c. An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

d. A local government owner or operator using a local government guarantee under subrule 136.15(4) must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

e. A local government owner or operator using the local government bond rating test under rule 136.13(455B) must maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

f. A local government owner or operator using the local government guarantee under rule 136.15(455B), where the guarantor's demonstration of financial responsibility relies on the bond rating test under rule 136.13(455B), must maintain a copy of the guarantor's bond rating published within the last twelve months by Moody's or Standard & Poor's.

g. An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

h. An owner or operator using a local government fund under rule 136.16(455B) must maintain the following documents:

(1) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund, and

(2) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under subrule 136.16(3) using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

(3) If the fund is established under subrule 136.16(3) using incremental funding backed by bonding authority, the owner or operator must also maintain documentation of the required bonding authority, including either the results of a voter referendum (under paragraph 136.16(3)"a"), or attested by the state attorney general as specified under paragraph 136.16(3)"b."

i. A local government owner or operator using the local government guarantee supported by the local government fund must maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

j. An owner or operator using an assurance mechanism specified in rules 136.6(455B) through 136.16(455B) must maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Certification of Financial Responsibility**

[Owner or operator] hereby certifies that it is in compliance with the requirements of 567--Chapter 136 of the Iowa Administrative Code(IAC).

The financial assurance mechanism(s) used to demonstrate financial responsibility under 567--Chapter 136 IAC is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number, if applicable, amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases".]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

The owner or operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

**ITEM 6.** Amend renumbered rule 567--136.21(455B) as follows:

**567--136.21(455B) Drawing on financial assurance mechanisms.**

**136.21(1)** The director of the Iowa department of natural resources shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

a. The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

The director determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the director pursuant to rule 135.6(455B) or 135.7(455B) of a release from an underground storage tank covered by the mechanism; or

b. The conditions of ~~136.17(2)"a" or 136.17(2)"b" or 136.17(2)"b"(2)~~ paragraph 136.21(2)"a" or subparagraph 136.21(2)"b"(1) or 136.21(2)"b"(2) are satisfied.

**136.21(2)** The director of the Iowa department of natural resources may draw on a standby trust fund when:

a. The director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate

notice and opportunity to comply, has not conducted corrective action as required under rule ~~567-~~  
~~135.8(455B)~~ ~~135.9(455B)~~; or

b. The director has received either:

(1) Certification from the owner or operator and the third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**Certification of Valid Claim**

The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[\_\_\_\_].

[Signatures]

Owner or Operator

Attorney for Owner or Operator

(Notary)

Date

[Signatures]

Claimant(s)

Attorney(s) for Claimant(s)

(Notary)

Date; or

(2) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this chapter and the director determines that the owner or operator has not satisfied the judgment.

**136.21(3)** If the director of the department of natural resources determines that the amount of corrective action costs and third-party liability claims eligible for payment under ~~136.17(2)"b"~~ paragraph 136.21(2)"b" may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The director shall pay third-party liability claims in the order in which the director receives certifications under subparagraph ~~136.17(2)"b"(1)~~ 136.21(2)"b"(1) and valid court orders under subparagraph ~~136.17(2)"b"(2)~~ 136.21(2)"b"(2).

136.21(4) A governmental entity acting as guarantor under subrule 136.15(5), the local government guarantee without standby trust, shall make payments as directed by the director under the circumstances described in subrule 136.21(1), 136.21(2), or 136.21(3).

**ITEM 7.** Amend renumbered rule 567--136.23(455B) and 136.24(455B) as follows:

**567--136.23(455B) Bankruptcy or other incapacity of owner or operator or provider of financial assurance.**

**135.23(1)** Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the director of the Iowa department of natural resources by certified mail of such

commencement and submit the appropriate forms listed in subrule ~~136.16(2)~~ 136.20(2) documenting current financial responsibility.

136.23(2) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in rule 136.7(455B).

136.23(3) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator must notify the director of the Iowa department of natural resources by certified mail of such commencement and submit the appropriate forms listed in subrule 136.20(2) documenting current financial responsibility.

136.23(4) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor must notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in rule 136.15(455B).

136.23(5) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, letter of credit, or state-required mechanism. The owner or operator must obtain alternate financial assurance as specified in this chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, the owner or operator must notify the director of the Iowa department of natural resources.

136.23(6) ~~136.23(4)~~ Within 30 days after receipt of notification that a state fund or other state assurance has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator must obtain alternate financial assurance.

**567--136.24(455B) Replenishment of guarantees, letters of credit, or surety bonds.**

136.24(1) If at any time after a standby trust is funded upon the instruction of the director with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

- a. Replenish the value of financial assurance to equal the full amount of coverage required, or
- b. Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

136.24(2) For purposes of this rule, the full amount of coverage required is the amount of coverage to be provided by rule 136.4(455B). If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

**Item 8.** Amend subrule 136.2(5) as follows:



~~135.2(5) All local government entities; February 18, 1994, one year from the date federal rules are promulgated with additional mechanisms for local government entities to comply with financial responsibility requirements for underground storage tanks containing petroleum.~~

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

Mr. Stokes briefly reviewed the rules and asked the Commission's approval.

*Motion was made by William Ehm to approve Final Rule--Chapter 136, UST Financial Responsibility for Local Governments. Seconded by Charlotte Mohr.*

Nancylee Siebenmann asked, in reference to 136.23(5), how soon the owner or operator must notify the Director if they do not obtain alternate coverage within 30 days.

Mr. Stokes stated that notification should be immediately.

Commissioner Siebenmann suggested that notification to the Director be required to be within 10 days.

*William Ehm amended his motion to add "within 10 days" to the end of the last sentence under 136.23(5). Charlotte Mohr concurred with the amendment. Motion as amended carried unanimously.*

\_\_\_\_\_  
APPROVED AS AMENDED

## **FINAL RULE--CHAPTER 62, EFFLUENT AND PRETREATMENT STANDARDS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The commission is asked to approve revisions to Chapters 60 and 62 of the rules that adopt, by reference, the federal effluent and pretreatment standards applicable to industrial dischargers. The purpose of this rulemaking is to update references in rules 62.4 (455B) and 62.5 (455B) to federal effluent and pretreatment standards which need to be changed to remain current with federal regulations. The change to rule 60.2 (455B) is to update the definition of "Act" to include amendments to the Water Pollution Control Act through July 1, 1993. The commission is being asked to adopt these rules without public notice and participation. Adoption of federal effluent

and pretreatment standards by reference, without public notice, is specifically provided for by rule 62.2 (455B) and Iowa Code section 17A.4(1). Because the commission must adopt effluent and pretreatment standards at least as stringent as the federal standards in order to have EPA approval of the NPDES program, and the Iowa Code section 455B.173(3) prohibits the commission from adopting standards more stringent than the federal standards, public participation in this rulemaking is unnecessary.

#### ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends 567--Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions," and 567--Chapter 60, "Scope of Title - Definitions - Forms - Rules of Practice." Iowa Administrative Code.

The purpose of this rule making is to update references in rules 62.4(455B) and 62.5(455B) to federal effluent and pretreatment standards found in 40 Code of Federal Regulations (CFR) which need to be changed due to federal amendments and revisions to 40 CFR. The change to rule 60.2(455B) is to update the definition of "Act" to include amendments to the Water Pollution Control Act through July 1, 1993.

In accordance with Iowa Code section 17A.4(2), the commission finds that public notice and participation are unnecessary. Under rule 62.2(455B) the commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The commission found that public participation is unnecessary since the commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have continued approval by the federal Environmental Protection Agency of the department's NPDES program. Iowa Code section 455B.173(3) requires that the effluent and pretreatment standards adopted by the commission not be more stringent than the enumerated promulgated federal standards.

The commission adopted these rule amendments on August 16, 1993. The amendments will become effective on October 20, 1993.

These rules may have an impact upon small businesses.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I.

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ITEM 1. Amend rule 567--60.2 to read as follows:

567--60.2(455B) Definitions. The following definitions apply to this title, unless otherwise specified in the particular chapter of this title:



"Act" means the Federal Water Pollution Control Act as amended through ~~July 1, 1992~~ July 1, 1993, 33 U.S.C. §1251 et seq.

ITEM 2. Amend rule 567--62.4(455B) to read as follows:

567--62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, ~~1992~~ 1993, are applicable to the following categories:

ITEM 3. Amend rule 567--62.5(455B) to read as follows:

567--62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR part 129, revised as of July 1, ~~1992~~ 1993.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

Mr. Stokes briefly reviewed the rules noting that this merely changes a reference to the federal regulations. He stated that staff is asking the Commission to adopt the rules without filing or notice.

*Motion was made by Nancylee Siebenmann to approve Final Rule--Chapter 62, Effluent and Pretreatment Standards, as presented. Seconded by Verlon Britt. Motion carried unanimously.*

APPROVED AS PRESENTED

## **PROPOSED RULE--CHAPTER 22, AIR EMISSION SOURCE OPERATING PERMITS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

A copy of the Notice of Intended Action which proposes to add rules requiring sources to obtain Title V operating permits and addresses the federal acid rain program will be distributed at the Commission meeting for your information.

These rules will be an integral part of the Department's application for the federal Title V operating permit program. The deadline for states to apply for the program is November 15, 1993.

(A copy of the rule is on file in the department's Records Center)

Mr. Stokes gave a detailed explanation of the rules. He noted that staff worked with an ad hoc task group representing various industries to craft and review the rules.

INFORMATIONAL ONLY

### STREAM USE ASSESSMENT METHODOLOGY

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The commission has requested information on how proposed stream use designations are determined. The issue was raised during the Commission's discussion on a proposed stream use designations.

A written summary of the Department's procedures used in assessing stream uses will be presented to the Commission.

Mr. Stokes distributed copies of the following summary used in assessing stream uses.

#### Stream Use Designation Assessments

*Synopsis: The Clean Water Act requires that water quality in the nation's streams be good enough to provide for various uses, including the protection and propagation of fish and shellfish and water-based recreation. Individual states have the responsibility and flexibility to better define what uses need protection and can thus tailor pollution prevention programs to their particular needs and situation. Iowa has adopted use classifications which meet national guidelines and which provide for the protection of aquatic life, water-based recreation, and drinking water supplies. Aquatic use classifications are further subdivided to reflect the differing aquatic communities typically found in Iowa waters. Assessing warmwater streams for the appropriate use classifications involves field evaluations of habitat and the aquatic species using rapid bioassessment methodology. Use classifications are published as rules and must be adopted through formal rulemaking procedures.*

#### Background - Why are Stream Uses Classifications Needed?

The objective of the Federal Clean Water Act is to "....restore and maintain the chemical, physical and biological integrity of the Nation's waters." Although the Act establishes an ultimate national goal of eliminating any discharge of pollutants into the nation's waters, it also establishes an interim goal, wherever attainable, of water quality which will provide for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water. In other words, while it is preferable to have no discharge of pollutants at all, discharge controls must, at a minimum, insure a level of water quality to support viable populations of aquatic organisms and to provide for water-based recreation. This is often referred to as the "fishable, swimmable" goal of the Act.

The Clean Water Act recognizes the inherent role of States in preventing pollution and planning the development and use of land and water resources. States are allowed flexibility in defining what uses the discharge controls mandated by the Act must protect. Although waterbody uses established by States must fall within the broad framework of the Act, this deference to states recognizes regional differences in the levels of controls needed to achieve the "fishable, swimmable" goal. For instance, the discharge controls needed to protect a salmon-spawning stream in the Pacific Northwest would generally be more stringent than those required to protect the aquatic organisms of the Nishnabotna River in southwest Iowa. Imposing the same discharge limits on an industry in southwest Iowa as an industry discharging to a salmon-spawning stream would not be required to achieve the "fishable" goal since the Nishnabotna is not physically capable of sustaining a salmon fishery regardless of how "clean" the water is. By adopting use classifications representative of their needs and the aquatic populations found there, states insure that discharge controls implemented will not be more or less stringent than needed to protect (or restore) those uses and resources.

Use classifications adopted by states can and do vary considerably but all classification systems must take into consideration the use and value of the water for public water supplies, the protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agriculture, industries, and other purposes such as navigation. Waste transport or waste assimilation is not considered an appropriate use.

#### Use Designations for Iowa Waters

Water quality standards adopted by the Environmental Protection Commission establish three principle classes of designated uses for waters within the state. They are:

- Class A, primary body contact recreation (e.g., swimming, boating and water skiing)
- Class B, aquatic life
- Class C, drinking water supply

Class B uses are further subdivided into cold water aquatic life (CW), significant resource warm water (WW), limited resource warm water (LR), and lakes and wetlands (LW). In addition, there are designations for high quality and high quality resource waters (HR and HQR) for waters displaying exceptional water quality characteristics.

Waterbodies that do not meet the criteria for any of the Class A, B, or C uses are considered General Use waters (typically small streams with intermittent flow) and are protected for uses such as livestock and wildlife watering and non-contact recreation when sufficient flow exists to support those uses. Prior to 1990, Class B uses were divided into only two subclasses: coldwater and warmwater. The 1990 water quality standards revisions further divided the warmwater subclass into significant resource and limited resource waters and added a subclassification for lakes and wetlands.

Attachment A is a listing of the use classifications as found in the Commission's rules.

**Determining a Waterbody's Appropriate Classification**

The State of Iowa has approximately 82,000 miles of perennial and intermittent streams and numerous lakes and wetlands which must be assessed to determine if the waterbody is presently supporting or is capable of supporting any of the uses associated with the various use classifications. The Department's present effort to assess all waters began in 1990 with the adoption of the present use classifications.

Assessing waters for Class A (primary body contact recreation) and Class C (drinking water supply) can often be done using existing information from various sources (e.g., list of public water supplies). Assessments for these uses are normally "desk top" assessments and only rarely would require site visits or extensive analysis.

Assessing waters for Class B uses (i.e., aquatic communities) is fundamentally more difficult and time consuming, especially when determining whether small to mid-sized streams warrant a Significant Resource or Limited Resource use designation or should be considered a General Use water. Aquatic use assessments for the larger rivers can usually be made from the desktop as sufficient information on fisheries usually exist to determine whether they support an aquatic population indicative of the Class B Significant Resource water. Similarly, use assessments for coldwater streams (i.e., northeast Iowa trout streams) and lakes and wetlands (publicly owned lakes and wetland complexes) are relatively easy to conduct using existing information. The majority of work in conducting stream use assessments involves the small to mid-sized warmwater streams since seldom is there sufficient information available to determine if those waterbodies warrant a Significant Resource or Limited Resource use designation or are a General Use water. Since the chemical water quality needed to support the aquatic species associated with these classifications varies, stream use determinations for the small to mid-sized warmwater rivers and streams typically are of most interest to cities and industries that discharge to those streams.

In determining whether a warmwater stream is capable of supporting an aquatic population associated with Iowa's various warmwater aquatic use designations, the most significant factors are:

- **Habitat** - Habitat is normally the most important factor. Without proper habitat, the stream will not support a robust, diverse aquatic population even if sufficient quantities of good quality water are present. Meanders, pools and riffles, a diverse substrate (bottom material) and a good cover of riparian vegetation are positives; straight channels, little substrate diversity, and little riparian vegetation are negatives.
- **Flow characteristics** - Many of the smaller streams occasionally have no flow. These intermittent streams may have adequate habitat but cannot support aquatic populations during prolonged dry periods although some streams with deep pools may be able to sustain populations with zero or low flow.
- **Chemical water quality** - The aquatic community in a stream with good habitat may be impaired by poor chemical water quality. In Iowa streams, high levels of ammonia and low levels of dissolved oxygen are some of the more common chemical water quality problems impacting aquatic communities.

The methods used by the Department to assess warmwater streams evaluate these factors to determine if a stream or stream segment presently supports or is capable of supporting (with imposition of appropriate discharge controls) the aquatic populations indicative of Significant Resource or Limited Resource warmwater stream or General Use stream. The protocol used was developed by Department staff in 1990 and is based on rapid bioassessment protocols developed by the state of Ohio and the U.S. EPA.

The following steps are typically used in assessing small to mid-sized warmwater streams.

1. In-office review - Topographic maps, and any relevant water quality information are reviewed for a stream, drainage areas determined, etc. prior to the field evaluation. Likely locations for stream sampling are determined and potential sources of water quality impacts such as point source discharges are identified. Priority is given to streams where discharge permit limits are needed for a facility. Low flow conditions must be present in the stream/basin to properly conduct the field evaluation.
2. Field evaluation - Teams of two to three EPD staff members conduct a field evaluation of the stream. After a general reconnaissance of the area, the habitat and aquatic populations are evaluated at various point along the stream. Evaluations normally proceed from upstream to downstream. Habitat evaluations are based on physical observations of the stream characteristics such as meanders and pools and riffles, substrate material, riparian vegetation, etc. The aquatic community is sampled where appropriate using seining or electro shocking techniques. Results of the habitat and aquatic species evaluation are noted on a field sheet developed by the Department. A copy of the field sheet is included as Attachment B. The scores obtained with the use of the field sheet are a relative measure of the biotic integrity of the stream and can range from a high of 52 to a low of 13.
3. Preliminary use classification recommendation - Based on the results of the field evaluation and other relevant factors, EPD staff recommend appropriate use classifications for specific stream segments. Department fisheries staff may be consulted, especially where collected data raise questions. Also determined are the upstream and downstream limits of a use classification. At some point, all warmwater streams become small enough to only warrant a General Use classification and this "dividing line" must be determined based on both objective and subjective factors. The recommendation for the aquatic use classification is not tied rigidly to the scores obtained on the field sheets but the scores do provide an overall picture of the relative chemical, physical and biological integrity of the stream. For instance, a habitat evaluation score of below 20 is an initial indication the stream segment evaluated should be a General Use stream as opposed to a Class B Limited Resource stream. A stream which has good habitat and aquatic populations but which may go dry occasionally may be recommended for a Class B(LR) designation with an appropriate protected flow. The protected flow (always greater than the 7Q10 flow) may be used for wasteload allocations instead of the 7Q10 normally used.
4. Rulemaking - Stream use classifications are published in the Iowa Administrative Code as Commission rules. Changes or additions to the stream use classifications must go through formal rulemaking procedures. The use classifications as recommended by EPD staff are normally submitted to the Commission as a proposed Notice of Intended Action. Hearings are held in the appropriate geographical area to receive comments and a Responsiveness Summary is normally prepared to address comments received.

## Stream Use Classifications for Iowa Streams

Use Classification	Description	* Significance to Dischargers
General Use	Intermittent watercourses and those watercourses which typically flow only for short periods of time following local precipitation or as a result of discharges from wastewater treatment facilities, and whose channels are normally above the water table. These waters do not support a viable aquatic community of significance during low flow and do not maintain pooled conditions during periods of no flow.	"Lowest" classification, aquatic life during elevated flows protected from acutely toxic conditions, generally results in stringent discharge permit limits.
Class A, Primary Contact Recreation	Waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of ingesting water in quantities sufficient to pose a health hazard. Such activities would include swimming, diving, water skiing, and water contact recreational canoeing.	Discharges from domestic wastewater treatment plants must be disinfected to eliminate human pathogens.
Class B, Aquatic Use	Class B uses are subdivided into 4 subclasses representing the varying types of aquatic life communities found in Iowa waters.	Aquatic community present protected from pollutants which are acutely or chronically toxic.
• B(CW) Coldwater	Waters in which the temperature, flow, and other habitat characteristics are suitable for the maintenance of a wide variety of cold water species, including nonreproducing populations of trout and associated communities.	Generally requires more stringent discharge controls, especially for ammonia and dissolved oxygen.
• B(WW) Significant Resource Warmwater	Waters in which temperature, flow and other habitat characteristics are suitable for the maintenance of a wide variety of reproducing populations of warm water fish and associated aquatic communities, including sensitive (pollution intollerant) species.	"Highest" warmwater designation, generally requires more stringent discharge limits than B(LR) waters to protect the diverse community.
• B(LR) Limited Resource Warmwater	Waters in which flow or other physical characteristics limit the ability of the water body to maintain a balanced warmwater community. Such waters support only populations composed of species able to survive and reproduce in a wide range of physical and chemical conditions, and are not generally harvested for human consumption.	Discharge permit limits may be less stringent as the aquatic community present is more tolerant to pollution.
• B(LW) Lakes and Wetlands	Artificial and natural impoundments with hydraulic retention times and other physical and chemical characteristics suitable to maintain a balanced community normally associated with lake-like conditions.	Discharges to state-owned lakes and wetlands generally prohibited. Discharge to other lakes and wetlands similar to B(WW).
Class IIQ, High Quality	Waters with exceptionally better chemical water quality than Iowa's ambient water quality standards and with exceptional recreational and ecological importance.	May require special considerations to preserve existing water quality.
Class IIQR, High Quality Resource	Waters of substantial recreational or ecological significance which possess unusual, outstanding or unique physical, chemical, or biological characteristics which enhance the beneficial uses.	Same as IIQ waters.
Class C, Drinking Water Supplies	Waters which are used as a raw source of potable water supply.	Waters must be protected from wide variety of synthetic and naturally occurring chemicals to protect human health.

- Determining discharge permits limits is a complex process and depends upon many factors. All dischargers are required to provide a minimum level of treatment regardless of the waterbody they discharge to. If a discharge would impair the use associated with that waterbody, more stringent controls may be needed and the use classification assigned to that waterbody has a significant impact in determining the degree of treatment required by the facility.



**STREAM USE DESIGNATION REVIEW FORM**  
**Part 1: Habitat Evaluation**

Reviewers: \_\_\_\_\_ Date: \_\_\_\_\_ Basin: \_\_\_\_\_

Stream Location: \_\_\_\_\_

Quadrangle: \_\_\_\_ 1/4 \_\_\_\_ 1/4, S \_\_\_\_ T-\_\_\_\_, R-\_\_\_\_ County: \_\_\_\_\_

	Excel	Good	Fair	Poor	Comments
1. 7Q10 Stream flow (cfs): Observed: _____ cfs	<u>&gt;2</u>	<u>2-1</u>	<u>&lt;1</u>	<u>&lt;0.1</u>	
2. 7Q10 flow depth (average)	<u>&gt;12"</u>	<u>12-8"</u>	<u>7-2"</u>	<u>&lt;2"</u>	
3. 7Q10 flow width (average)	<u>&gt;10'</u>	<u>10-5'</u>	<u>5-2'</u>	<u>&lt;2'</u>	
4. Stream bed composition log/rock/sand/mud	<u>v.div</u>	<u>div</u>	<u>l.div</u>	<u>mono</u>	
5. Pool/riffle frequency	<u>num</u>	<u>sev</u>	<u>few</u>	<u>none</u>	
6. Channel alterations: clear/straight/pasture	<u>none</u>	<u>isol</u>	<u>freq</u>	<u>ext</u>	
7. Bank stability (Extent of erosion)	<u>v.stab</u>	<u>some</u>	<u>freq</u>	<u>ext</u>	
8. Bank cover (dominant vegetation)	<u>shrub</u>	<u>tree</u>	<u>grass</u>	<u>none</u>	
9. Influence of WWTP on flow or habitat	<u>none</u>	<u>isol</u>	<u>notice</u>	<u>ext</u>	

Number of checks / column = \_\_\_\_\_

Weighting Factor = 4 3 2 1

Checks X Weighting Factor = \_\_\_\_\_ + \_\_\_\_\_ + \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attachment B



August 1993

Environmental Protection Commission Minutes

STREAM USE DESIGNATION REVIEW FORM  
Part 2: Aquatic Species Evaluation

Reviewers: \_\_\_\_\_ Date: \_\_\_\_\_ Basin: \_\_\_\_\_

Stream Location: \_\_\_\_\_

Quadrangle: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, S \_\_\_\_\_ T- \_\_\_\_\_, R- \_\_\_\_\_ County: \_\_\_\_\_

Methods: \_\_\_\_\_ Observed \_\_\_\_\_ Seined \_\_\_\_\_ Electrofish \_\_\_\_\_ Distance: \_\_\_\_\_ ft

Comments: \_\_\_\_\_

	Excel	Good	Fair	Poor	Comments
1. Number of species found	<u>          </u> >10	<u>          </u> 10-5	<u>          </u> 4-2	<u>          </u> <2	
2. Percent of species with over 20 specimens/species	<u>          </u> >75	<u>          </u> 75-50	<u>          </u> 49-25	<u>          </u> <25	
3. Percent of pollutant- tolerant species	<u>          </u> 0-25	<u>          </u> 26-50	<u>          </u> 51-75	<u>          </u> >75	
4. Individuals with disease	<u>          </u> none	<u>          </u> isol	<u>          </u> freq	<u>          </u> ext	

Number of checks / column = \_\_\_\_\_

Weighting Factor =        4            3            2            1

Checks X Weighting Factor = \_\_\_\_\_ + \_\_\_\_\_ + \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TOTAL SCORE (Habitat + Aquatic Species) = \_\_\_\_\_

RECOMMENDATIONS: \_\_\_\_\_

\_\_\_\_\_

PROTECTED FLOW: NO YES = \_\_\_\_\_ cfs; USE SUPPORT: F FS/T P N

## Environmental Protection Commission Minutes

August 1993

Rozanne King asked where floods have caused new cuts in an area, if the DNR leaves it that way.

Director Wilson stated that if it is an area where a bridge, a highway, the public, or a facility is endangered there could be corrective action taken to protect whatever is being threatened. He added that flood related levee restoration could be allowed without a permit as long as it is restored to its original condition.

Clark Yeager asked about removing sand or mud which was deposited on fields by the floodwaters.

Director Wilson stated that the department would like to see those deposits used some other way than being put back into the stream.

Discussion followed regarding aquatic communities and evaluating streams.

### INFORMATIONAL ONLY

#### GENERAL DISCUSSION

- Referrals delayed last month
- Leo Schachtner case
- Energy Bank Program

#### NEXT MEETING DATES

September 20, 1993


October 18, 1993

November 15, 1993

#### ADJOURNMENT

*Motion was made by William Ehm to adjourn the meeting. Seconded by Nancylee Siebenmann.  
Motion carried unanimously.*

With no further business to come before the Environmental Protection Commission, Chairperson Hartsuck adjourned the meeting at 2:40 p.m., Monday, August 16, 1993.

  
Larry J. Wilson, Director

E93Aug-69

August 1993

Environmental Protection Commission Minutes

Richard Hartsuck  
Richard Hartsuck, Chairperson

Nancylee Siebenmann  
Nancylee Siebenmann, Secretary

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RECORD COPY  
The Name ADM-1-1-1 EPC Meeting  
August 1993  
Initials JA  
**MEETING AGENDA**  
**ENVIRONMENTAL PROTECTION COMMISSION**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

**August 16, 1993**

**Meeting convenes at 10:00 a.m., Monday, August 16, 1993, in the fourth floor conference room.**

**Public Participation**

**10:30 a.m.**

- 1. Approve Agenda.**
- 2. Approve Minutes of July 19, 1993.**
- 3. Director's Report. (Wilson) Information.**
- 4. Waste Reduction Assistance Program (WRAP). (Hay) Information.**
- 5. Contract Approval - Municipal Water Pollution Prevention Plan. (Kuhn) Decision.**
- 6. Monthly Reports. (Stokes) Information.**
- 7. Proposed Rule--Chapter 131, Notification of Hazardous Conditions. (Stokes) Information.**
- 8. Notice of Intended Action--Chapter 23, Emission Standards for Contaminants. (Stokes) Decision.**
- 9. Final Rule--Chapter 135, UST Ability to Pay. (Stokes) Decision.**
- 10. Final Rule--Chapter 136, UST Financial Responsibility Rules for Local Governments. (Stokes) Decision.**
- 11. Final Rule--Chapter 62, Effluent and Pretreatment Standards. (Stokes) Decision.**
- 12. Proposed Rule--Chapter 22, Air Emission Source Operating Permits. (Stokes) Information.**
- 13. Stream Use Assessment Methodology. (Stokes) Information.**
- 14. General Discussion.**
- 15. Address Items for Next Meeting.**

# ENVIRONMENTAL PROTECTION COMMISSION

Monday, August 16, 1993

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)	Dm Register	Dm
Ferry Beeman		
DAN WEST	GROWMARK, INC	BLOOMINGTON, IL
JEAN TROBEC	GROWMARK	BLOOMINGTON, IL
Amy Christensen Couch	Sullivan & Ward	Dm
Scott Young	Nyemaster	DM
Theresa White	Senate Democrats	DSM
Mary Blum	House Democrats	DSM
Cameron Moore	Muscatine Development Corp	Muscatine
Debbie Neustadt	Sierra Club	Des Moines
Rick Kelley	UHL	DSM
Doug Rushing	MONSANTO	DSM
Jane McAllister	Albion	DSM
Linda King Harding	IA. Assn of Muni. Utility	DSM
Refuge	Muscatine, Iowa	
Paul C. C. C.	Muscatine Power & Light Co. Muscatine	